

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 394. MEDIATION AND NEGOTIATED RULEMAKING

1 TAC §§394.1 - 394.7

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Chapter 394 consisting of §394.1, concerning Definitions; §394.2, concerning Policy; §394.3, concerning Circumstances in Which Mediation is Offered; §394.4, concerning Dispute Resolution Administrator; §394.5, concerning Dispute Resolution Coordinators; §394.6, concerning Mediation Process; and §394.7, concerning Negotiated Rulemaking.

BACKGROUND AND PURPOSE

The purpose of the proposal is to repeal outdated rules concerning alternative dispute resolution and negotiated rulemaking. The rules were last modified in 2006. Following repeal, HHSC will maintain policies for negotiated rulemaking and alternative dispute resolution as required by Texas Government Code §531.0161.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§394.1 - 394.7 removes rules that are outdated and do not reflect current policy.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rule repeals will be in effect, enforcing or administering the rule repeals do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule repeals will be in effect:

- (1) the proposed repeals will not create or eliminate a government program;
- (2) implementation of the proposed repeals will not affect the number of HHSC employee positions;
- (3) implementation of the proposed repeals will result in no assumed change in future legislative appropriations;
- (4) the proposed repeals will not affect fees paid to HHSC;
- (5) the proposed repeals will not create a new regulation;

(6) the proposed repeals will repeal existing regulations;

(7) the proposed repeals will not change the number of individuals subject to the rules; and

(8) the proposed repeals will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules will be removed and do not require any change in business processes or additional costs.

LOCAL EMPLOYMENT IMPACT

The proposed repeals will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to the repeals because the repeals do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Libby Elliott, Deputy Executive Commissioner for the Office of Policy and Rules, has determined that for each year of the first five years the repeals are in effect, the public benefit will be removal of unnecessary rules from the Texas Administrative Code.

Trey Wood has also determined that for the first five years the repeals are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed repeals because the rules will be removed.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following

business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R056" in the subject line.

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0151, which requires the Executive Commissioner of HHSC to adopt rules for the operation and provision of services by the health and human services agencies.

The repeals implement Texas Government Code §524.0151.

§394.1. *Definitions.*

§394.2. *Policy.*

§394.3. *Circumstances in Which Mediation is Offered.*

§394.4. *Dispute Resolution Administrator.*

§394.5. *Dispute Resolution Coordinators.*

§394.6. *Mediation Process.*

§394.7. *Negotiated Rulemaking.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 6, 2025.

TRD-202501531

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 221-9021



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER E. POST AWARD AND ASSET MANAGEMENT REQUIREMENTS

10 TAC §10.406

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 TAC Chapter 10, Subchapter E, §10.406 Ownership Transfers. The purpose of the proposed amendments is to make clear that letters from the mayor or county judge will not be acceptable as documentation of local support for ownership transfers that involve the addition of a public facility corporation, a housing finance corporation, or a public housing authority prior to the issuance of 8609s that will result in a 100% property tax exemption that was not previously reflected in the Application.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the amendments would be in effect, the amendments do not create or eliminate a government program, but relate to changes to an existing activity, concerning ownership transfers in the Low Income Housing Tax Credit (LI-HTC) program and other Department-funded multifamily Developments.

2. The amendments do not require a change in work that would require the creation of new employee positions, nor are the amendments significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The amendments do not require additional future legislative appropriations.

4. The amendments do not result in an increase in fees paid to the Department or in a substantial decrease in fees paid to the Department.

5. The amendments are not creating a new regulation, but propose revisions to provide additional clarification. The purpose of the amendment to §10.406(h) is to ensure that the municipality, or if the Development is not located within a municipality or Extra Territorial Jurisdiction (ETJ), the commissioners court supports a change to the ownership structure that will result in a property tax exemption.

6. The amendments will not repeal an existing regulation.

7. The amendments will not increase or decrease the number of individuals subject to the rule's applicability.

8. The amendments will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures for the handling of post award and asset management activities of multifamily developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the rule. If a small or micro-business is such an owner or participant, the new rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the amendments because this rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendments do not contemplate

or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect there will be no economic effect on local employment, because this rule only provides for administrative processes required of properties in the Department's portfolio. No program funds are channeled through this rule, so no activities under this rule would support additional local employment opportunities. Alternatively, the rule would also not cause any negative impact on employment. Therefore, no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that no impact is expected on a statewide basis, there are also no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendments are in effect, the benefit anticipated as a result of the amended sections would be increased clarity and consistency across rule sections. There will not be economic costs to individuals required to comply with the amendment.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendments are in effect, enforcing or administering the amendments does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held May 23, 2025, to June 23, 2025, to receive input on the proposed amended section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Lee Ann Chance, Asset Management Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email to leeann.chance@tdhca.texas.gov. **ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local (Central) time on June 23, 2025.**

The proposed amendments are made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed amendments affect no other code, article, or statute.

§10.406. Ownership Transfers (§2306.6713).

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The exceptions to the ownership transfer process in this subsection are applicable.

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals, or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval, but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(5) Changes resulting from a deed-in-lieu of foreclosure do not require Executive Director approval. However, advance notification must be provided to both the Department and to the tenants at least 30 days prior to finalizing the transfer. This notification must include information regarding the applicable rent/income requirements post deed-in-lieu of foreclosure.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Persons and Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this Subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(5) Any initial operating, capitalized operating, or replacement reserves funded with an allocation from the HOME American Rescue Plan (HOME-ARP) and Special Reserves required by the Department must remain with the Development.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement

was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff will refer the matter to the Enforcement Committee for debarment consideration pursuant to §2.401 of this title (relating to Enforcement, Debarment from Participation in Programs Administered by the Department). In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs), an Applicant may request a change to its ownership structure to add Principals or to remove Principals provided not all controlling Principals identified in the Application will be removed. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s. In addition, for Competitive HTC Developments, changes in the ownership structure for the addition of a public facility corporation, a housing finance corporation, or a public housing authority prior to the issuance of 8609s that will result in a 100% property tax exemption that was not previously reflected in the Application, require a resolution of support from the municipality [~~or a letter of support from the mayor~~], or if the Development is not within a municipality or its Extra Territorial Jurisdiction (ETJ), a resolution of support from the commissioners court [~~or letter of support from the county judge~~].

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package.

(3) Exceptions to paragraphs (1) and (2) of this subsection may be made on a case by case basis if the Development (for MFDL) is past its Federal Affordability Period or (for HTC Developments) is past its Compliance Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows

the procedures outlined in §10.405(b)(1) - (5) of this subchapter. The Board must find that:

(A) The selling nonprofit is acting of its own volition or is being removed as a result of a default under the organizational documents of the Development Owner;

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of IRS Form(s) 8609, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the LURA does not require it or the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved. The removal of a HUB requirement prior to filing of IRS Form(s) 8609 is subject to the procedure described in §10.405(b)(2) of this Chapter (relating to Material LURA Amendments).

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) A written explanation outlining the reason for the request;

(2) Ownership transfer information, including but not limited to the type of sale, terms of any new financing introduced as a result of the transfer, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre- and post-transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(12)(B) of Subchapter C of this title (relating to Required Documentation for Application Submission);

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(12)(C) of this title (relating to Required Documentation for Application Submission);

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted as further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

(9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30-day period has expired; and

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of this title (relating to Ineligible Applicants and Applications).

(j) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) In cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(k) Penalties, Past Due Fees, and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring) and Subchapter G of this chapter (relating to Affirmative Marketing Requirements and Written Policies and Procedures). The Development Owner on record with the Department will be liable for any penalties or fees imposed by the Department (even if such penalty can be attributable to the new Development Owner) unless an ownership transfer has been approved by the Department. In the event a transferring Development has a history of uncorrected UPCS or NSPIRE violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PNA or SCR, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer. A PNA or SCR may be requested if one has not already been received under §10.404 of this section (relating to Reserve Accounts).

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this title (relating to Fee Schedule).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 9, 2025.

TRD-202501596

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 475-3959

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 22. PROCEDURAL RULES

SUBCHAPTER E. PLEADINGS AND OTHER DOCUMENTS

The Public Utility Commission of Texas (commission) proposes the repeal of 16 Texas Administrative Code (TAC) §22.71, relating to Filing of Pleadings, Documents, and Other Materials and 16 TAC §22.72, relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission and proposes new 16 TAC §22.71, relating to Commission Filing Requirements and Procedures and new 16 TAC §22.72, Form Requirements for Documents Filed with the Commission. The commission also proposes a confidential-filing memorandum as a new commission-prescribed form that will be required for completion and inclusion when a party seeks to file an item confidentially with the commission. The proposed new confidential-filing memorandum will be included as a figure in 16 TAC §22.71(j)(2)(E).

The proposed rules will modernize the filing processes and procedures for matters before the commission. Proposed new 16 TAC §22.71 overhauls the commission's filing procedures by formally authorizing the electronic filing of documents with the commission using the commission filing system. Proposed new 16 TAC §22.71 generally removes the requirement to file multiple physical copies of document, except in certain circumstances. Specifically, proposed new 16 TAC §22.71 preserves physical filing as a method of filing, updates the physical filing standards, and establishes physical filing requirements for maps; applications and notices of intent in electric base rate proceedings; and applications for new or amended electric, water, or sewer certificates of necessity. Proposed new 16 TAC §22.71 also authorizes an employee of the commission or the presiding officer to request a physical copy of any filing. Proposed new 16 TAC §22.71 provides criteria for the rejection of filings by the commission's Central Records division that are incomplete, illegible, missing identifying information, or, as applicable, do not comply with the requirements for confidential filings. Proposed new 16 TAC §22.71 also establishes new procedures for filing items confidentially. Specifically, when a person seeks to file an item confidentially with the commission, the person must publicly file a redacted copy of the item and a fully completed confidential-filing memorandum to identify the pages that are confidential and justify the claim to confidentiality and confidentially file an unredacted version of the item. Additionally, proposed new 16 TAC §22.71 also establishes a process for challenging a confidential-filing designation by another party to the case or by the presiding officer. Proposed new 16 TAC §22.72 updates the formatting requirements and guidelines for electronic and physical items filed with the commission and includes procedures for filing external storage devices for digital media (such as a CD, DVD, or USB), handwritten documents, and maps and GIS data. Proposed new 16 TAC §22.72 also updates the page limit and signature requirements for filings, and also adds a new requirement for a party to provide evidence of service with a filing.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for

each year of the first five years that the proposed rules are in effect, the following statements will apply:

- (1) the proposed rules will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rules will create new regulations;
- (6) the proposed rules will expand, limit, or repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rules will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rules will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

David Smeltzer, Division Director, Rules and Projects has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Mr. Smeltzer has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be more efficient practices for filing and processing documents for matters before the commission. There will not be any probable economic costs to persons required to comply with the rules under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed sections are in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by June 18, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Initial comments must be filed by June 18, 2025. Reply comments must be filed by July 2, 2025. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 52059.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

16 TAC §22.71, §22.72

Statutory Authority

The repeals are proposed under the Public Utility Regulatory Act, Texas Utilities Code (PURA) §14.002 and §14.052 under the Texas Water Code §13.041(b) which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure before the commission.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §14.052 and Texas Water Code §13.041(b).

§22.71. *Filing of Pleadings, Documents, and Other Materials.*

§22.72. *Formal Requisites of Pleadings and Documents to be Filed with the Commission.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

TRD-202501582

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 936-7322



16 TAC §22.71, §22.72

Statutory Authority

The new sections are proposed under the Public Utility Regulatory Act, Texas Utilities Code (PURA) §14.002 and §14.052 under the Texas Water Code §13.041(b) which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure before the commission.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §14.052 and Texas Water Code §13.041(b).

§22.71. Commission Filing Requirements and Procedures.

(a) Scope. The following items must be filed with the commission using the commission filing system.

(1) Pleadings, as defined under §22.2 of this title (relating to Definitions);

(2) All documents relating to a rulemaking proceeding;

(3) Registrations, certifications, or reports required by statute or rule to be submitted to the commission with an associated control number and for which no alternative means of submission, such as a database, have been provided by the commission;

(4) Letters, memoranda, or other documents relating to any proceeding with a control number;

(5) Maps, geographic information system (GIS) data, or other visual information such as charts, photographs, or illustrations;

(6) Any document included as part of the record in all matters or proceedings for which a control number has been assigned, including protective orders and protective order certifications; and

(7) Any other item required to be filed by statute or commission rule for which no alternative means of submission, such as a database, have been provided by the commission.

(b) Definition. When used in this section, the term "commission filing system" means the electronic filing system maintained for the archiving and organization of items and materials received by the commission.

(c) Filing methods and procedure.

(1) Unless otherwise required by commission rule, statute, or ordered by the presiding officer, all items required to be filed with the commission using the commission filing system, including confidential filings, may be filed electronically or physically.

(2) Unless otherwise required by commission rule, statute, or ordered by the presiding officer, all items required to be filed with the commission using the commission filing system, including confidential filings, will be posted on the commission filing system.

(d) Special filing requirements.

(1) Notwithstanding any other provision of this title, the following types of items must be filed in the manner specified below:

(A) Letters of Credit. A copy of an original letter of credit must be filed electronically, unless otherwise required by commission staff or a presiding officer. An employee of the commission or a presiding officer may require the original or one or more copies of the original letter of credit to be physically filed.

(B) Maps. A map must be electronically filed in the original scale (not scanned, reduced or enlarged original) PDF format. If a map is physically filed, it must be filed in its original scale.

(i) A filing party must make a physical copy of a map available to an employee of the commission or a presiding officer upon request.

(ii) An applicant initiating a proceeding under §25.101 of this title (relating to Certification Criteria) must provide to Central Records six physical copies of any maps filed electronically in the proceeding. This requirement is in addition to the two physical copies required under paragraph (2) of this subsection, as applicable.

(iii) An employee of the commission or a presiding officer may require additional copies of any map to be physically filed.

(C) GIS data. GIS data used to create maps under subparagraph (B) of this paragraph must be electronically filed in its native format and be capable of being used and analyzed by commission staff. GIS data includes any additional information, materials, or documents required for accurate interpretation of a map.

(2) The following types of items must be electronically filed, and the filer must also physically file two copies with the commission:

(A) Applications and notices of intent in electric base rate proceedings; and

(B) Applications for new or amended electric, water, or sewer certificates of convenience and necessity, including any maps.

(3) An employee of the commission or a presiding officer may require a filer to provide physical copies of a filing.

(e) Receipt by the commission and filing deadline. Items filed with the commission will be processed by Central Records or the commission filing system.

(1) Central Records may reject a filing if the filing does not contain information necessary for accurate filing, including if the filing:

(A) is blank, illegible, or missing pages in whole or in part;

(B) does not contain minimally necessary identifying information such as the control number or the filer's complete contact information; or

(C) is designated as confidential but does not comply with the requirements of subsection (j) of this section.

(2) Upon receipt of an item by physical filing, Central Records will date stamp the item, place the item in the relevant control number associated with the matter, and assign the item an item number in accordance with the order the filing was received.

(3) Upon receipt of an item by electronic filing, the commission filing system will process the item, place the item in the relevant control number associated with the matter and assign the item an item number in accordance with the order the filing was received.

(4) An item date-stamped before or at 5:00:00 p.m. on a working day will be deemed filed on that day. An item date-stamped after 5:00:00 p.m. on a working day will be deemed filed on the next working day. An item date-stamped at any time on a day that is not a working day will be deemed filed on the next working day.

(5) The filer is responsible for any delay, disruption, or interruption of mail, courier service, Internet, or electronic signals.

(f) No filing fee. No filing fee is required to file an item with the commission.

(g) Availability of Central Records.

(1) Physical Filings. The commission filing system will be available for physical filings only during hours when Central Records is open, as specified by paragraph (2) of this subsection.

(2) Hours.

(A) The office hours of Central Records are from 9:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, on working days, except on open meeting days, the working day immediately preceding an open meeting day, and emergencies or days with inclement weather.

(B) On open meeting days and the working day immediately preceding an open meeting day, Central Records will be open

from 8:00 a.m. to 5:00 p.m. However, only commissioners, commission counsel, and the commission employees in the Office of Policy and Docket Management (OPDM) will be allowed to physically file items between the hours of 8:00 a.m. and 9:00 a.m. and 12 noon to 1:00 p.m. on those days.

(3) Commission filing system. The commission filing system will be available for electronic filing 24 hours a day, seven days a week, unless taken down for maintenance, emergency, loss of connectivity, or as otherwise determined by Central Records.

(h) Availability of items filed with the commission.

(1) An electronic filing will be available for access once accepted and processed by the commission filing system. Once processed, a written receipt will be automatically generated and electronically sent to the filing party identifying the date and time the filing was accepted by the commission's filing system.

(2) A physical filing will be available for access on the commission filing system once processed by Central Records.

(3) A physical filing, request for a new control number, or an item designated as confidential might not be processed or appear on the commission filing system until the next working day after the filing is processed by Central Records.

(4) If an item is filed electronically, when the item becomes available on the commission filing system, email notification will be sent to the filing party. If the item does not appear on the commission filing system, the filer is responsible for notifying Central Records to correct the filing.

(5) A filer may void a filing, including a confidential filing under subsection (j) of this section.

(A) The request must identify the filing with enough precision for Central Records to identify the correct filing.

(B) Items may only be voided by the filer that originally filed that item, or by someone who is authorized to request the filing be voided on behalf of the original filer.

(C) Central Records will remove the voided item from the commission filing system. The filing party may re-file the item in accordance with this section.

(i) Filing deadlines for open meeting documents addressed to the commissioners.

(1) Except as provided in paragraph (2) of this subsection, all documents addressed to the commissioners and concerning an item that has been placed on an agenda for an open meeting must be filed no later than seven days prior to the open meeting at which the matter will be considered. Documents that are not timely filed will be considered untimely. The commissioners may review untimely filed documents at their discretion.

(2) The deadline established in paragraph (1) of this subsection does not apply if:

(A) The documents have been specifically requested by one or more of the commissioners at a time that makes it impossible for the filer to meet the deadlines under paragraph (1) of this subsection; or

(B) The parties are negotiating and such negotiation requires the late filing of materials reporting on the negotiation.

(j) Confidential material filed with the commission. An item filed in a commission proceeding is public and available for viewing by the public unless the item is designated as confidential in accordance

with this subsection. To designate an item as confidential, a party must comply with the requirements of this subsection, unless otherwise ordered by the presiding officer.

(1) Electronic and physical filing of confidential items. Electronically and physically filed items may be designated as confidential in the manner described by this subsection.

(2) Confidential-filing requirements.

(A) A filer submitting an item designated as confidential must separately file the following documents and comply with any individual protective order governing the access and handling of confidential materials that is applicable to the proceeding:

(i) a fully completed confidential-filing memorandum as specified in subparagraphs (D) and (E) of this paragraph accompanied by a redacted copy of the original item for public filing; and

(ii) an unredacted copy of the original item for confidential filing.

(B) Central Records may reject a confidential filing that does not include the documents described under subparagraph (A) of this paragraph. Central Records will notify the filer of the rejection through electronic mail if reasonably practicable. It is the filer's responsibility to check the control number to verify that its confidential filing was accepted and to contact Central Records for any necessary corrections.

(C) A redacted copy of a confidential filing must be redacted only to the minimum extent necessary to ensure confidentiality.

(D) For each filing designated as confidential, the filer must include the following information in a confidential-filing memorandum under subparagraph (E) of this paragraph. To be deemed fully completed, a confidential-filing memorandum must provide or include the following:

(i) Plainly state the reasons for the confidential designation;

(ii) Plainly state the legal support for the confidential designation, if applicable;

(iii) The specific pages or portions of pages of the filing that are confidential and have been redacted;

(iv) Any identifying information required by the confidential-filing memorandum in subparagraph (E) of this paragraph regarding the filer, the proceeding (such as the control number), or confidential filing.

(v) Any additional information required by the protective order in effect in the applicable proceeding or that may otherwise be required by the presiding officer via written order; and

(vi) An acknowledgement that the confidential status of the filing is subject to revocation by the presiding officer.

(E) Confidential-filing memorandum.

Figure: 16 TAC §22.71(j)(2)(E)

(F) Physical filing. In addition to the requirements of subparagraphs (A) through (E) of this paragraph, a filer must also comply with the requirements of this subparagraph to designate an item filed physically as confidential. The filer must deliver the confidential item to Central Records in a sealed and labeled envelope (the confidential envelope). The confidential envelope must not include non-confi-

denial documents unless directly related to and essential for clarity of the confidential document.

(i) All physically filed confidential material must be provided in a 10 x 13-inch manila clasp envelope. Larger envelopes or multiple envelopes are permitted only when necessary due to the material's size or volume. If multiple envelopes are necessary, each envelope must be sequentially numbered and indicate the total number of envelopes for the filing (e.g., 1 of 3).

(ii) The completed confidential-filing memorandum required under subparagraph (E) of this paragraph must be securely taped or adhered to the front of the confidential envelope.

(iii) In addition to paragraph (2)(A) of this subsection, if the item is not submitted in a confidential envelope in accordance with this subparagraph, Central Records will not designate the item as confidential, and the item will be rejected. The item may be re-filed in accordance with this section.

(iv) A physical filing designated as confidential that has been rejected by Central Records will be returned to the filer if practicable or otherwise securely disposed of in the manner described by paragraph (8) of this subsection.

(G) Electronic filing. In addition to the requirements of subparagraphs (A) through (E) of this paragraph, to designate an item filed electronically as confidential, the filer must indicate that the item is to be filed confidentially in the manner provided by the commission filing system.

(3) Challenge of confidentiality designation. The confidentiality designation of any filing may be challenged by any party via motion or by the presiding officer via order. A challenge to a confidentiality designation must specifically indicate the basis of the challenge and the portions of the filing that should not be confidential.

(A) If a confidentiality designation is challenged, the filing party has the burden of showing that the item should remain confidential. The filing party must respond to a motion challenging the confidentiality of a filing within five days of the motion, or within the time period specified by the presiding officer.

(B) If the presiding officer determines that a confidentiality designation under this section is appropriate, the presiding officer will issue an order and allow the filing to remain confidential on the commission filing system.

(C) The presiding officer will issue an order if the presiding officer determines that a confidentiality designation under this section is not appropriate. After such an order is issued, the filing party must submit a request to Central Records to void the filing and include a copy of the order. Upon receipt of such a request, Central Records will remove the voided item from the commission filing system. The filing party may re-file the item in accordance with this section and the order of the presiding officer.

(4) Posting of confidential information on the commission filing system. A document designated as confidential will be posted to the commission filing system in the manner described by this paragraph.

(A) The completed confidential-filing memorandum required under paragraphs (2)(D) and (E) of this subsection and the redacted version of the confidential filing will be posted publicly on the commission filing system as a single filing.

(B) The unredacted version of the item will be posted confidentially on the commission filing system and will only be accessible by the persons listed under paragraph (6) of this subsection.

(5) Confidential re-filing of voided items. The filing party may re-file an item confidentially in accordance with this subsection after submitting a request to void a filing under subsection (h)(5) of this section.

(6) Access to confidential information. Access to confidential filings is limited to persons that meet the criteria of this paragraph, as applicable. Disclosure of confidential information is subject to the ex parte requirements of this subtitle:

(A) A commissioner, commission employee in OPDM, or an employee in a commissioner's office may access confidential filings in any proceeding if the commissioner or employee completes, signs, and submits to Central Records an Employee Statement Regarding Non-Disclosure of Confidential Information (the confidential access form). Once the commissioner or employee has done so, he or she may access confidential filings in any proceeding before the commission. A commissioner, a commission employee in OPDM, or an employee in a commissioner's office may only disclose confidential information contained in such filings to a commissioner or other employee in OPDM or a commissioner's office who has also completed, signed, and submitted to Central Records the confidential access form and only if the disclosure does not violate Texas Government Code Chapter 551 (the Texas Open Meetings Act).

(B) A commission employee in Central Records or Information Technology may access confidential filings for clerical and administrative tasks necessary to ensure the proper maintenance and functioning of the commission filing system including the correction or removal of filings or actions otherwise directed by the presiding officer in a specific proceeding.

(C) To access confidential filings filed with the commission in a specific proceeding, a party to a proceeding not covered by subparagraph (A) or (B) of this paragraph must complete, sign, and file in the proceeding a protective order certification. The certification must comply with the protective order entered by the presiding officer in that proceeding. The protective order certification is no longer valid after the commission's plenary jurisdiction over the proceeding has expired.

(7) Public information. Designation of a document as confidential in a commission proceeding under this subsection is not determinative of whether that document would be subject to disclosure under the Texas Public Information Act, the Texas Open Meetings Act, or other applicable law.

(8) Records retention. Unless otherwise specified by this section, a confidential document in the possession of Central Records will be maintained and destroyed as required by the commission's Records Retention Schedule as approved by the Texas State Library and Archives Commission. A confidential document in the possession of parties to a proceeding must be maintained, destroyed, or returned to the providing party in the manner prescribed by the protective order adopted in that proceeding.

(9) In camera inspection. A document presented for in camera inspection solely for the purpose of obtaining a ruling on its discoverability or admissibility must not be filed as a confidential document under this paragraph but must be submitted in the manner specified under §22.144 (relating to Requests for Information and Requests for Admission of Facts).

§22.72. Form Requirements for Documents Filed with the Commission.

(a) Applicability. This section applies to all items required to be filed with the commission under §22.71 (related to Commission Filing Requirements and Procedures).

(b) Definition. When used in this section, the term "commission filing system" means the electronic filing system maintained for the archiving and organization of items and materials received by the commission.

(c) Form Requirements.

(1) Unless otherwise authorized or required by statute, the presiding officer, or commission rules, items filed with the commission must include in the item or specify on a cover sheet included with the item the following information:

(A) the style and control number of the proceeding for which the item is submitted, if available;

(B) a heading identifying the nature of the item submitted and the name of the party; and

(C) the signature of the party or the party's representative in accordance with subsection (f) of this section, if applicable.

(2) All items should be formatted for 8.5 x 11-inch paper except for any log, graph, map, drawing, or chart submitted as part of a filing if the content cannot be formatted legibly on 8.5 x 11-inch paper.

(3) The following apply to any submission of electronic material submitted on an external storage device for digital media (such as a CD, DVD, or USB).

(A) A party is prohibited from submitting electronic material on an external storage device for digital media, unless the request is authorized by Central Records in writing under subparagraph (B) of this paragraph.

(B) The procedure for filing an external storage device for digital media is as follows:

(i) The filer must demonstrate to Central Records via written correspondence that the material is unique and not ordinarily capable of being electronically or physically filed on the commission filing system. Central Records will review the written correspondence and make a determination regarding the request within a reasonable time period.

(ii) Upon authorization by Central Records, a party may submit one or more acceptable external storage devices for digital media to Central Records. Such devices must be physically delivered at a designated shipping or mailing commission address listed on the commission's website by mail, courier, or hand delivery to Central Records.

(C) Notwithstanding subparagraph (A) of this paragraph, the presiding officer may require a filer to provide one or more filings via external storage for digital media.

(D) Central Records will maintain a list of acceptable external storage devices for digital media on the commission website.

(d) Format and filing standards.

(1) The following format standards are applicable to all filings. All items filed with the commission should:

(A) be double-spaced or one and one-half times spaced with left and right margins not less than one inch wide, except that any letter, tariff filing, rate filing, or proposed findings of fact, conclusions of law, and ordering paragraphs may be single-spaced;

(B) indent and single-space any quotation which exceeds 50 words; and

(C) be printed or formatted in a legible font and not less than 12-point type.

(2) The following general standards are applicable to all filings.

(A) Any non-native figure, illustration, or object submitted with a filing must be filed as a referenced attachment in its native format.

(i) For purposes of this subsection, native format means the file type in which the item was created and is designed to function (such as .xls for Excel sheets or .doc/.docx for Word documents).

(ii) Non-native figures, illustrations, and objects include, but are not limited to, tables, graphs, charts, spreadsheets, illustrations, drawings and other objects that are not integrated into the text portions of a document.

(B) Each item that has five or more headings or five or more subheadings must have a table of contents that lists the major sections of the item, the page number for the start of each major section, and identifiers for each major section of the item. Discovery responses are exempt from this subparagraph.

(C) All pages of a filing, starting with the first page of the table of contents, must be consecutively numbered through the last page of the document, including any attachments.

(D) If a filing contains a barcode, the barcode must be covered or redacted.

(E) If a filing contains sensitive personal information of the filer or any other person, such as social security numbers, driver license numbers, or financial records, including account numbers, that sensitive personal information must be redacted.

(3) Handwritten documents must be legible and must comply with the requirements of paragraphs (2)(D) and (2)(E) of this subsection.

(e) Citation form. An item filed with the commission should comply with the commission's Citation and Style Guide. Any citations to law or other legal authority in an item filed with the commission should also comply with the Texas Rules of Form: The Greenbook (for Texas authorities), The Bluebook: A Uniform System of Citation (for all other authorities).

(f) Signature and other requirements. All filings must:

(1) be signed by the party or the party's authorized representative. If the person signing the pleading or document is a licensed attorney, the attorney's state of licensure and bar number must also be provided;

(2) include the contact information of the party or authorized representative of the party, consisting of the following:

(A) a physical mailing address;

(B) a telephone number;

(C) an email address, unless the party or the party's authorized representative has filed a statement under §22.106 of this title (relating to Statement of No Access).

(3) include the date the document was signed and the date the document was served on all the parties to the proceeding. Evidence of service must be presented in accordance with §22.74 of this title (relating to Service of Pleadings and Documents).

(g) Page limits. The commission, commission counsel, or the presiding officer may establish page limits for filings for contested cases. In establishing page limits, the commission, commission counsel, or the presiding officer may consider such factors as which party

has the burden of proof and the extent of opposition to a party's position that would need to be addressed in the document. The commission or commission staff may establish page limits for filings in projects.

(h) Electronic filing standards. An electronically filed item must comply with the requirements of this subsection. Central Records will maintain a list of preferred electronic file formats on the commission's website.

(1) Electronic items must be filed in the native file format used to create and edit the file.

(2) Electronic items that are also filed in a portable document format (PDF) must be filed in a format that permits searches of text.

(3) Electronic filings with interactive content, such as a Microsoft Excel spreadsheet, must have active links and formulas that were used to create and manipulate the data in the filing. Links and formulas may include descriptive and technical metadata required for electronic records to maintain and retain reliability, including metadata necessary to adequately support the usability, authenticity, or integrity as well as the preservation of a record.

(4) If the filing cannot be uploaded, the filer must contact Central Records to determine an alternative means of filing.

(i) Physical filing standards. A physically filed item should comply with the requirements of this subsection. The requirements of this section do not apply to maps.

(1) Physical items should be printed on 8.5 by 11-inch paper or, if the content cannot be formatted legibly on letter-size paper, be folded to a size no larger than 8.5 by 11 inches; and

(2) Physical items should be printed on both sides of the paper or, if it cannot be printed on both sides of the paper, every page of the copy must be single sided.

(j) Maps and GIS data filing standards.

(1) Electronic and physical copies of maps and GIS data must be filed in accordance with §22.71 of this title.

(2) Commission staff will maintain on the commission's website:

(A) a list of acceptable file formats for maps and GIS data in accordance with subsection (h) of this section; and

(B) a procedure for filing physical maps, including oversized maps, that a filing party must comply with.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

TRD-202501583

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 936-7322



TITLE 22. EXAMINING BOARDS

PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 341. LICENSE RENEWAL

22 TAC §341.2

The Texas Board of Physical Therapy Examiners (board) proposes amending 22 TAC §341.2(g) relating to Continuing Competence Audits.

The amendment is proposed to clarify that failure to submit documentation of the required number of approved CCUs taken within the audited renewal period may result in disciplinary action. Additionally, the amendment includes licensees who are more than 90 days up to one year late renewing in the Continuing Competence Audit instead of requiring submission of CCU documentation upon renewal.

Fiscal Note

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the amendment is in effect there would be no loss of revenue, and there would be no fiscal implication to units of local government as a result of enforcing or administering the rules.

Public Benefits and Costs

Mr. Harper has determined that for the first five-year period the amendment is in effect, the public benefit will be providing increased clarity of the procedures for determining licensee compliance with continuing competence renewal requirements. Additionally, there will be no cost to the public.

Local Employment Economic Impact Statement

The amendment is not anticipated to impact a local economy, so a local employment economic impact statement is not required.

Small and Micro-Businesses and Rural Communities Impact

Mr. Harper has determined that there will be no costs or adverse economic effects to small or micro-businesses or rural communities as the result of the amendment; therefore, an economic impact statement or regulatory flexibility analysis is not required.

Government Growth Impact Statement

During the first five-year period the amendment is in effect, the impact on government growth is as follows:

(1) The proposed rule amendment will neither create nor eliminate a government program.

(2) The proposed rule amendment will neither create new employee positions nor eliminate existing employee positions.

(3) The proposed rule amendment will neither increase nor decrease future legislative appropriations to the agency.

(4) The proposed rule amendment will require neither an increase nor a decrease in fees paid to the agency.

(5) The proposed rule amendment does not create a new regulation.

(6) The proposed rule amendment will neither repeal nor limit an existing regulation.

(7) The proposed rule amendment will increase individuals subject to the rule's applicability as licensees who late renew from

90 days up to one year will be included in the Continuing Competence Audit.

(8) The proposed rule amendment will neither positively nor adversely affect this state's economy.

Takings Impact Assessment

The proposed rule amendment will not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

Requirement for Rule Increasing Costs to Regulated Persons

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to this because the proposed rule amendment will not increase costs to regulated persons.

Public Comment

Comments on the proposed amendments and repeal may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 1801 Congress Ave, Suite 10.900, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

Statutory Authority

The amendment is proposed under Texas Occupation Code §453.102, which authorizes the board to adopt rules necessary to implement chapter 453.

Cross-reference to Statute

The proposed amendment implements provisions in Chapter 453, Subchapter H, Occupations Code that pertain to Continuing Competence. No other statutes, articles, or codes are affected by the proposed amendment.

§341.2. Continuing Competence Requirements.

(a) - (f) (No change.)

(g) The executive council will conduct an audit of a random sample of licensees at least quarterly to determine compliance with continuing competence renewal requirements. Failure to submit documentation of the required number of approved CCUs taken within the audited renewal period [~~maintain accurate documentation~~], or failure to respond to a request to submit documentation for an audit within 30 days of the date on the request, may result in disciplinary action by the board.

(1) Licensees eligible for audit include those who renewed prior to their license expiration date and those who late renewed up to one year. [~~who are more than 90 days late in renewing a license are not included in the audit, and must submit documentation of continuing competence activities at time of renewal.~~]

(2) (No change.)

(h) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 9, 2025.

TRD-202501599

Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 305-6900

PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 535. GENERAL PROVISIONS

SUBCHAPTER B. GENERAL PROVISIONS

RELATING TO THE REQUIREMENTS OF LICENSURE

22 TAC §535.2

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.2, Broker Responsibility, in Chapter 535, General Provisions.

The proposed change is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendment. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendment. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years, the proposed amendment is in effect the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General

Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.2. *Broker Responsibility.*

(a) A broker is required to notify a sponsored sales agent in writing of the scope of the sales agent's authorized activities under the Act. Unless such scope is limited or revoked in writing, a broker is responsible for the authorized acts of the broker's sales agents, but the broker is not required to supervise the sales agents directly. If a broker permits a sponsored sales agent to conduct activities beyond the scope explicitly authorized by the broker, those are acts for which the broker is responsible.

(b) A broker owes the highest fiduciary obligation to the principal and is obliged to convey to the principal all information known to the agent which may affect the principal's decision unless prohibited by other law.

(c) A broker is responsible for the proper handling of trust funds placed with the broker and must comply with §535.146 of this chapter (relating to Maintaining Trust Money).

(d) A broker is responsible for any property management activity by the broker's sponsored sales agent that requires a real estate license.

(e) A broker may delegate to another license holder the responsibility to assist in administering compliance with the Act and Rules, but the broker may not relinquish overall responsibility for the supervision of license holders sponsored by the broker. Any license holder who leads, supervises, directs, or manages a team must be delegated as a supervisor. Any such delegation must be in writing. A broker shall provide the name of each delegated supervisor to the Commission using a [on a form or through the online] process acceptable to [approved by] the Commission within 30 days of any such delegation that has lasted or is anticipated to last more than three consecutive months. The broker shall notify the Commission in the same manner within 30 days after the delegation of a supervisor has ended. In the event the delegated supervisor is a broker at the time of delegation or later becomes a broker, that broker may, in lieu of the sponsoring broker, notify the Commission in writing when the delegation ends.

(f) Listings and other agreements for real estate brokerage services must be solicited and accepted in a broker's name.

(g) A broker is responsible to ensure that a sponsored sales agent's advertising complies with §535.154 of this chapter (relating to Registration and Use of Alternate, Team and Assumed Business Names Used in Advertisements) and §535.155 of this chapter (relating to Advertisements).

(h) Except for records destroyed by an "Act of God" such as a natural disaster or fire not intentionally caused by the broker, the broker must, at a minimum, maintain the following records in a format that is readily available to the Commission for at least four years from

the date of closing, termination of the contract, or end of a real estate transaction:

- (1) disclosures;
- (2) commission agreements such as listing agreements, buyer representation agreements, or other written agreements relied upon to claim compensation;
- (3) substantive communications with parties to the transaction;
- (4) offers, contracts, and related addenda;
- (5) receipts and disbursements of compensation for services subject to the Act;
- (6) property management contracts;
- (7) appraisals, broker price opinions, and comparative market analyses; and
- (8) sponsorship agreements between the broker and sponsored sales agents.

(i) A broker who sponsors sales agents or is a designated broker for a business entity shall maintain, on a current basis, written policies and procedures to ensure that:

(1) Each sponsored sales agent is advised of the scope of the sales agent's authorized activities subject to the Act and is competent to conduct such activities, including having competence in the geographic market area where the sales agent represents clients.

(2) Each sponsored sales agent maintains their license in active status at all times while they are engaging in activities subject to the Act.

(3) Any and all compensation paid to a sponsored sales agent for acts or services subject to the Act is paid by, through, or with the written consent of the sponsoring broker.

(4) Each sponsored sales agent is provided on a timely basis, before the effective date of the change, notice of any change to the Act, Commission rules, or Commission promulgated contract forms.

(5) In addition to completing statutory minimum continuing education requirements, each sponsored sales agent receives such additional educational instruction the broker may deem necessary to obtain and maintain, on a current basis, competency in the scope of the sponsored sales agent's practice subject to the Act. At a minimum, when a sales agent performs a type of real estate brokerage activity for the first three times, the broker must require that the sales agent receive coaching and assistance from an experienced license holder competent for that activity.

(6) Each sponsored sales agent complies with the Commission's advertising rules.

(7) All trust accounts, including but not limited to property management trust accounts, and other funds received from consumers are maintained by the broker with appropriate controls in compliance with §535.146 of this chapter.

(8) Records are properly maintained pursuant to subsection (h) of this section.

(j) In addition to the requirements of §535.157 of this chapter (relating to Obligation to Respond Timely), a broker or supervisor delegated under subsection (e) of this section must respond to sponsored sales agents within two calendar days.

(k) A sponsoring broker or supervisor delegated under subsection (e) of this section shall deliver mail and other correspondence from

the Commission to their sponsored sales agents within three calendar days after receipt.

(l) When the broker is a business entity, the designated broker is the person responsible for the broker responsibilities under this section.

(m) This section is not meant to create or require an employer/employee relationship between a broker and a sponsored sales agent.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Abby Lee

General Counsel

Texas Real Estate Commission

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SUBCHAPTER C. EXEMPTIONS TO REQUIREMENTS OF LICENSURE

22 TAC §535.35

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.35, Registration of Certain Business Entities, in Chapter 535, General Provisions.

The proposed changes are made, in part, as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change. Additionally, a clarifying change is made to the time period referenced in subsection (c)(2) to simplify the calculation of the time period.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the new rule will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151 and §1101.355. Section 1101.151 authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. Section 1101.355 requires the Commission to adopt rules providing for the registration of an exempted business entity.

The statute affected by this proposal is Texas Occupations Code, Chapters 1101. No other statute, code or article is affected by the proposed amendments.

§535.35. Registration of Certain Business Entities.

(a) For purposes of this section, an "exempt business entity" means a business entity which is exempt from the requirements of being licensed under §535.5(g) of this chapter (relating to License Not Required) and §1101.355(d) of the Act.

(b) Before an exempt business entity may receive compensation on behalf of a license holder, the license holder must:

(1) register the business entity with the Commission using a process acceptable to [on a form approved by] the Commission;

(2) pay a \$140 fee to the Commission; and

(3) provide supporting documentation satisfactory to the Commission demonstrating the entity meets the requirements for exemption.

(c) Term of Registration; Certification.

(1) A registration issued under this section is valid for two years from the date of issuance.

(2) The Commission will deliver a notice regarding expiration of the registration to the license holder 90 days [three months] before the expiration of the registration.

(3) Failure to receive the notice from the Commission does not relieve a license holder from the requirements of this subsection.

(4) Prior to the expiration of the registration, a license holder must:

(A) certify using a process acceptable to [on a form approved by] the Commission that the exempt business entity continues to meet the requirements under this section;

(B) pay a \$70 fee to the Commission; and

(C) provide supporting documentation as provided in subsection (b)(3) of this section, if determined necessary by the Commission.

(5) Failure to timely certify will result in expiration of the registration and loss of the exemption under §535.5(g) of this chapter and §1101.355(d) of the Act.

(d) A license holder must notify the Commission not later than the 10th day after the date the business entity no longer satisfies the requirements of §535.5(g)(1)-(3) of this chapter and §1101.355(d) of the Act.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER E. REQUIREMENTS FOR LICENSURE

22 TAC §535.51

The Texas Real Estate Commission (TREC) proposes an amendment to 22 TAC Chapter §535.51, General Requirements for a Real Estate License, in General Provisions.

The proposed change is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendment. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendment. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendment is in effect, the amendment will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;

- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101. No other statute, code or article is affected by the proposed amendments.

§535.51. *General Requirements for a Real Estate License.*

(a) Application.

(1) A person who intends to be licensed by the Commission must:

(A) file an application for the license using a [through the online] process acceptable to [approved by] the Commission [or on the form prescribed by the Commission for that purpose]; and

(B) submit the required fee under §535.101 of this chapter (relating to Fees).

(2) The Commission will reject an application submitted without a sufficient filing fee.

(3) The Commission may request additional information be provided to the Commission relating to an application.

(b) General Requirements for Licensure.

(1) To be eligible for a real estate license, an applicant must:

(A) meet the following requirements at the time of the application:

(i) be 18 years of age;

(ii) be a citizen of the United States or a lawfully admitted alien;

(B) comply with the fingerprinting, education, experience and examination requirements of the Act; and

(C) meet the honesty, trustworthiness, and integrity requirements under the Act.

(2) The fact that an individual has had disabilities of minority removed does not affect the requirement that an applicant be 18 years of age to be eligible for a license.

(c) Termination of application. An application is terminated and is subject to no further evaluation or processing if:

(1) the applicant fails to satisfy a current, education, experience, or examination requirement within one year from the date the application is filed;

(2) the applicant fails to submit a required fee within twenty (20) days after the Commission makes written request for payment;

(3) the applicant fails to provide information or documentation requested by the Commission within one year from the date the application is filed; or

(4) the applicant fails to provide fingerprints to the Department of Public Safety within one year from the date the application is filed.

(d) Completion of applicable education and experience.

(1) An applicant is not eligible to take an examination for a license until the Commission has received evidence of completion of all education and experience required by this subchapter.

(2) The Commission will not grant credit to an applicant for completing a course with substantially the same content as a course for which the applicant received credit within the previous two-year period.

(3) Except as provided by this subchapter and the Act, the Commission will not accept a person's license in another state to meet experience requirements.

(e) Examination. An applicant must take and pass a licensing examination in accordance with §535.57 of this chapter (relating to Examinations).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Abby Lee

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Texas Real Estate Commission

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SUBCHAPTER F. REQUIREMENTS FOR EDUCATION PROVIDERS, COURSES AND INSTRUCTORS FOR QUALIFYING EDUCATION

22 TAC §535.60, §535.65

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.60, Definitions, and §535.65, Responsibilities and Operations of Providers of Qualifying Courses.

The proposed amendment to §535.65(g)(1)(B)(i) replaces the phrase "check the photo identification" with "verify the identification" of each student to: (i) broaden the language in recognition of technology developments that may allow for this required verification in different ways; (ii) help alleviate concerns about the security of a student's personal data while taking a course; and (iii) make consistent with language used elsewhere in the rule. The remainder of the amendments to §535.65 remove the

requirement to have a qualifying course examination proctored and to have a proctor in situations where a course is delivered through the use of technology and there are more than 20 students at a remote site. The proctoring requirements were recommended to be removed out of concerns that: (i) the exam requirement was unnecessary because the licensing examination itself is proctored; and (ii) the requirements generally are overly burdensome. The proposed change to §535.65(h)(1) removes the requirement that the examinations be closed book in light of the removal of the proctoring requirements. The term "classroom delivery" is added to §535.65(g)(1)(C) to specify that the obligation applies to that type of course. The language in §535.65(h)(5) is reworded for consistency with similar language found in §535.72.

The proposed changes in §535.65(m)(1) and (2) are made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Finally, the proposed amendment to §535.60 removes the definition of "proctor" and renumbers accordingly for the reasons provided above.

The proposed amendments were recommended by the Education Standards Advisory Committee and the Texas Real Estate Inspector Committee.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated will be improved clarity, consistency, and integrity in rule and processes for members of the public, including students of qualifying courses, as well as education providers.

For each year of the first five years the proposed amendments are in effect the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit, or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules->

and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§535.60. *Definitions.*

The following words and terms, when used in Subchapter F of this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Classroom delivery--A method of course delivery where the instructor and students interact face to face and in real time, in either the same physical location, or through the use of technology.

(2) Distance Education delivery--A method of course delivery other than classroom delivery, including online and correspondence delivery.

(3) Combination delivery--A combination of classroom and distance education where at least 50% of the course is offered through classroom delivery.

(4) Instructor--A person chosen by a provider to teach qualifying courses.

(5) Legal Update Courses--Required courses created for and approved by the Commission to satisfy the eight hours of continuing education required by §1101.455 of the Act.

(6) Mandatory qualifying course--A qualifying course that an applicant is required to take to fulfill licensing requirements as mandated by §1101.358 of the Act.

(7) Elective qualifying course--A qualifying course, other than a mandatory qualifying course, for which the subject matter of the course is specified by the Act or Commission rule, that an applicant may take to fulfill licensing requirements.

(8) Person--Any individual, partnership, corporation, or other legal entity, including a state agency or governmental subdivision.

(9) Provider--Any person approved by the Commission; or specifically exempt by the Act, Chapter 1102, or Commission rule; that offers a course for which qualifying credit may be granted by the Commission to a license holder or applicant.

~~[(10) Proctor--A person who monitors a final examination for a course offered by a provider under the guidelines contained in this section. A proctor may be a course instructor, the provider, an employee of a college or university testing center, a librarian, or other person approved by the Commission.]~~

(10) [(11)] Scenario-based learning--The use of scenarios to support active learning strategies such as problem-based or case-based learning where students must apply their subject knowledge, critical thinking and problem-solving skills in a real-world context.

(11) [(12)] Topic--Subject matter that must be covered in a specific course as defined by the Act, Chapter 1102 and this chapter.

(12) [(13)] Unit--A subtopic that must be covered within a topic.

§535.65. *Responsibilities and Operations of Providers of Qualifying Courses.*

(a) Responsibility of Providers.

(1) A provider is responsible for:

(A) the administration of each course, including, but not limited to, compliance with any prescribed period of time for any required course topics required by the Act, Chapter 1102, and Commission rules;

(B) maintaining student attendance records and pre-enrollment agreements;

(C) verifying instructor qualification, performance and attendance;

(D) proper examination administration;

(E) validation of student identity acceptable to the Commission;

(F) maintaining student course completion records;

(G) ensuring all advertising complies with subsection (c) of this section;

(H) ensuring that instructors or other persons do not recruit or solicit prospective sales agents, brokers, easement or right-of-way agents, or inspectors during course presentation; and

(I) ensuring staff is reasonably available for public inquiry and assistance.

(2) A provider may not promote the sale of goods or services during the presentation of a course.

(3) A provider may remove a student and not award credit if a student does not participate in class, or disrupts the orderly conduct of a class, after being warned by the provider or the instructor.

(4) If a provider approved by the Commission does not maintain a fixed office in Texas for the duration of the provider's approval to offer courses, the provider shall designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas that the provider is required to maintain by this section. A power-of-attorney designating the resident must be filed with the Commission in a form acceptable to the Commission.

(b) Use of Qualified Instructor.

(1) Except as provided by this subsection, a provider must use an instructor that is currently qualified under §535.63 of this subchapter (relating to Qualifications for Instructors of Qualifying Courses) to teach the specified course.

(2) Each instructor shall be selected on the basis of expertise in the subject area of instruction and ability as an instructor.

(3) A provider shall require specialized training or work experience for instructors teaching specialized subjects such as law, appraisal, investments, taxation or home inspection.

(4) An instructor shall teach a course in substantially the same manner represented to the Commission in the instructor's manual or other documents filed with the application for course approval.

(5) A provider may use the services of a guest instructor who does not meet the instructor qualifications under §535.63 of this subchapter for qualifying real estate, easement or right-of-way, or in-

spector courses provided that person instructs for no more than 10% of the total course time.

(c) Advertising.

(1) The following practices are prohibited:

(A) using any advertising which does not clearly and conspicuously contain the provider's name on the first page or screen of the advertising;

(B) representing that the provider's program is the only vehicle by which a person may satisfy educational requirements;

(C) conveying a false impression of the provider's size, superiority, importance, location, equipment or facilities, except that a provider may use objective information published by the Commission regarding pass rates if the provider also displays next to the passage rate in a readily noticeable fashion:

(i) A hyperlink to the Commission website's Education Provider Exam Passage Rate page labeled "TREC Provider Exam Pass Rates" for digital media; or

(ii) A URL to the Commission website's Education Provider Exam Passage Rate page labeled "TREC Provider Exam Pass Rates" for non-digital media;

(D) promoting the provider directly or indirectly as a job placement agency, unless the provider is participating in a program recognized by federal, state, or local government and is providing job placement services to the extent the services are required by the program;

(E) making any statement which is misleading, likely to deceive the public, or which in any manner tends to create a misleading impression;

(F) advertising a course under a course name other than the course name approved by the Commission; or

(G) advertising using a name that implies the course provider is the Texas Real Estate Commission, including use of the acronym "TREC", in all or part of the course provider's name.

(2) Any written advertisement by a provider that includes a fee that the provider charges for a course must display any additional fees that the provider charges for the course in the same place in the advertisement and with the same degree of prominence.

(3) The provider shall advertise a course for the full clock hours of time for which credit is awarded.

(4) The provider is responsible for and subject to sanctions for any violation of this subsection by any affiliate or other third party marketer or web hosting site associated with or used by the provider.

(d) Pre-enrollment agreements for approved providers.

(1) Prior to a student enrolling in a course, a provider approved by the Commission shall provide the student with a pre-enrollment agreement that includes all of the following information:

(A) the tuition for the course;

(B) an itemized list of any fees charged by the provider for supplies, materials, or books needed in course work;

(C) the provider's policy regarding the refund of tuition and other fees, including a statement addressing refund policy when a student is dismissed or withdraws voluntarily;

(D) the attendance requirements;

(E) the acceptable makeup procedures, including any applicable time limits and any fees that may be charged for makeup sessions;

(F) the procedure and fees, if applicable, associated with exam proctoring;

(G) the procedure and fees for taking any permitted makeup final examination or any permitted re-examination, including any applicable time limits; and

(H) the notices regarding potential ineligibility for a license based on criminal history required by §53.152, Texas Occupations Code.

(2) A pre-enrollment agreement must be signed by a representative of the provider and the student prior to commencement of the course.

(e) Refund of fees by approved provider.

(1) A provider shall establish written policies governing refunds and contingency plans in the event of course cancellation.

(2) If a provider approved by the Commission cancels a course, the provider shall:

(A) fully refund all fees collected from students within a reasonable time; or

(B) at the student's option, credit the student for another course.

(3) The provider shall inform the Commission when a student requests a refund because of a withdrawal due to the student's dissatisfaction with the quality of the course.

(4) If a provider fails to give the notice required by subsection (d)(1)(H) of this section, and an individual's application for a license is denied by the Commission because the individual has been convicted of a criminal offense, the provider shall reimburse the individual the amounts required by §53.153, Texas Occupations Code.

(f) Course materials.

(1) Before the course starts, a provider shall give each student copies of or, if a student has online access, provide online access to any materials to be used for the course.

(2) A provider shall update course materials to ensure that current and accurate information is provided to students as provided for under §535.62 of this subchapter (relating to Approval of Qualifying Courses).

(g) Presentation of courses.

(1) Classroom Delivery.

(A) The location for the course must:

(i) be conducive to instruction, such as a classroom, training room, conference room, or assembly hall that is separate and apart from work areas;

(ii) be adequate for the class size;

(iii) pose no threat to the health or safety of students; and

(iv) allow the instructor to see and hear each student and the students to see and hear the instructor, including when offered through the use of technology.

(B) The provider must:

(i) ~~verify [check] the [photo] identification of each student at class sign up and when signing in for each subsequent meeting of the class;~~

(ii) ~~ensure the student is present for the course for the hours of time for which credit is awarded;~~

(iii) ~~provide a 10 minute break per hour at least every two hours; and~~

(iv) ~~not have daily course segments that exceed 12 hours.~~

(C) ~~For [If the course is] a qualifying or non-elective continuing education classroom delivery course delivered through the use of technology where [and] there are more than 20 students registered for the course, the provider will also use [;~~

~~[(i)] a monitor [at the broadcast origination site] to verify identification of each student, monitor active participation of each student and facilitate questions for the instructor. [; and]~~

~~[(ii)] a proctor at each remote site with more than 20 students to verify identification of each student, monitor active participation of each student and proctor any on-site examination.]~~

(D) ~~Makeup Session for Classroom Courses.~~

(i) ~~A provider may permit a student who attends at least two-thirds of an originally scheduled qualifying course to complete a makeup session to satisfy attendance requirements.~~

(ii) ~~A member of the provider's staff must approve the makeup procedure to be followed. Acceptable makeup procedures are:~~

~~(I) attendance in corresponding class sessions in a subsequent offering of the same course; or~~

~~(II) the supervised presentation by audio or video recording of the class sessions actually missed.~~

~~(iii) A student shall complete all class makeup sessions no later than the 90th day after the date of the completion of the original course.~~

~~(iv) A student who attends less than two-thirds of the originally scheduled qualifying course is not eligible to complete a makeup session. The student shall automatically be dropped from the course with no credit.~~

(2) ~~Distance Education Delivery. The provider must ensure that:~~

(A) ~~the student taking all topics of the course and completing all quizzes and exercises is the student receiving credit for the course through a student identity verification process acceptable to the Commission;~~

(B) ~~a qualified instructor is available to answer students' questions or provide assistance as necessary in a timely manner;~~

(C) ~~a student has completed all instructional modules and attended any hours of live instruction required for a given course; and~~

(D) ~~a qualified instructor is responsible for providing answers and rationale for the grading of the course work.~~

(3) ~~A provider is not required to present topics in the order outlined for a course on the corresponding course approval form.~~

(4) ~~The periods of time prescribed to each unit of a topic for a qualifying course as outlined on the corresponding course approval~~

~~form are recommendations and may be altered to allow instructors flexibility to meet the particular needs of their students.~~

(5) ~~Notwithstanding subsections (3) - (4) of this section, all units must be presented within the prescribed topic.~~

(h) ~~Course examinations.~~

(1) ~~The final examination given at the end of each course must be given in the manner submitted to and approved by the Commission. [All final examinations must be closed book.]~~

(2) ~~Final examination questions must be kept confidential and be significantly different from any quiz questions and exercises used in the course.~~

(3) ~~A provider shall not permit a student to view or take a final examination before the completion of regular course work and any makeup sessions required by this section.~~

(4) ~~A provider must rotate all versions of the examination required by §535.62(b)(7) of this subchapter throughout the approval period for a course in a manner acceptable to the Commission and [examinations] must:~~

~~[(A)] require an unweighted passing score of 70%. [; and]~~

~~[(B)] be proctored by a member of the provider faculty or staff, or third party proctor acceptable to the Commission, who:]~~

~~[(i)] is present at the test site or able to monitor the student through the use of technology acceptable to the Commission; and]~~

~~[(ii)] has positively identified that the student taking the examination is the student registered for and who took the course.]~~

(5) ~~A provider must administer the examination under conditions that ensure the student taking the examination is the student who registered for and took the course. [The following are examples of acceptable third party proctors:]~~

~~[(A)] employees at official testing or learning/tutoring centers;]~~

~~[(B)] librarians at a school, university, or public library;]~~

~~[(C)] college or university administrators, faculty, or academic advisors;]~~

~~[(D)] clergy who are affiliated with a specific temple, synagogue, mosque, or church; and]~~

~~[(E)] educational officers of a military installation or correctional facility.]~~

(6) ~~A provider may not give credit to a student who fails a final examination and a subsequent final examination as provided for in subsection (i) of this section.~~

(i) ~~Subsequent final course examination.~~

(1) ~~If a student fails a final course examination, a provider may permit the student to take a subsequent final examination only after the student has completed any additional course work prescribed by the provider.~~

(2) ~~A student shall complete the subsequent final examination no later than the 90th day after the date the original class concludes. The subsequent final examination must be a different version of the original final examination given to the student and must comply with §535.62(b)(8) of this subchapter and subsection (h) of this section.~~

(3) If a student fails to timely complete the subsequent final examination as required by this subsection, the student shall be automatically dropped from the course with no credit.

(4) A student who fails the final course examination a second time is required to retake the course and the final course examination.

(j) Course completion certificate.

(1) Upon successful completion of a qualifying course, a provider shall issue a course completion certificate. The course completion certificate shall include:

- (A) the provider's name and approval number;
- (B) the instructor's name;
- (C) the course title;
- (D) course numbers;
- (E) the number of classroom credit hours;
- (F) the course delivery method;
- (G) the dates the student began and completed the course; and
- (H) the printed name and signature of an official of the provider on record with the Commission.

(2) A provider may withhold any official completion documentation required by this subsection from a student until the student has fulfilled all financial obligations to the provider.

(3) A provider shall maintain adequate security against forgery for official completion documentation required by this subsection.

(k) Instructor and course evaluations.

(1) A provider shall provide each student enrolled in a course with an instructor and course evaluation form or provide a link to an online version of the form that a student can complete and submit any time after course completion.

(2) An instructor may not be present when a student is completing the evaluation form and may not be involved in any manner with the evaluation process.

(3) When evaluating an instructor or course, a provider shall use all of the questions from the evaluation form approved by the Commission, in the same order as listed on that form. A provider may add additional questions to the end of the Commission evaluation questions or request the students to also complete the provider's evaluation form.

(4) A provider shall maintain any comments made by the provider's management relevant to instructor or course evaluations with the provider's records.

(5) At the Commission's request, a provider shall produce instructor and course evaluation forms for inspection by Commission staff.

(l) Maintenance of records for a provider of qualifying courses.

(1) A provider shall maintain records of each student enrolled in a course for a minimum of four years following completion of the course, including course and instructor evaluations and student enrollment agreements.

(2) A provider shall maintain financial records sufficient to reflect at any time the financial condition of the school.

(3) A school's financial statement and balance sheets must be available for audit by Commission staff, and the Commission may require presentation of financial statements or other financial records.

(4) All records may be maintained electronically but must be in a common format that is legible and easily printed or viewed without additional manipulation or special software.

(m) Changes in ownership or operation of an approved provider of qualifying courses.

(1) An approved provider shall obtain the approval of the Commission at least 30 days in advance of any material change in the operations of the provider by submitting the Qualifying Education Provider Supplement Application using a process acceptable to the Commission, including but not limited to changes in:

- (A) operations or records management; and
- (B) the location of the main office and any other locations where courses are offered.

(2) An approved provider requesting approval of a change in ownership shall provide all of the following information or documents using a process acceptable to the Commission:

- (A) an Education Provider Application reflecting all required information for each owner and the required fee;
- (B) a Principal Information Form for each proposed new owner who holds at least 10% interest in the school;
- (C) financial documents to satisfy standards imposed by §535.61 of this subchapter (relating to Approval of Providers of Qualifying Courses), including a \$20,000 surety bond for the proposed new owner; and
- (D) business documentation reflecting the change.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

TRD-202501577

Abby Lee

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 936-3057



22 TAC §§535.61, 535.62, 535.64, 535.66

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.61, Approval of Providers of Qualifying Courses; §535.62, Approval of Qualifying Courses; §535.64, Content Requirements for Qualifying Real Estate Courses; and §535.66, Credit for Courses Offered by Accredited Colleges or Universities, in Chapter 535, General Provisions.

The proposed changes are made as a result of the agency's license management system project. First, because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, rule language is clarified to reflect this change. Secondly, because of license management system

project requirements, the proposed changes to §535.62(g)(3) clarify that a course approved for additional delivery methods under subsection(a)(3) expires on the same date as that of the originally approved course. This subsection also includes a proposed terminology change for consistency.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§535.61. Approval of Providers of Qualifying Courses.

(a) Application for approval.

(1) Unless otherwise exempt under subsection (b) of this section, a person desiring to be approved by the Commission to offer real estate, easement or right-of-way, or real estate inspection qualifying courses shall:

(A) file an application using a process [on the appropriate form approved by] acceptable to the Commission, with all required documentation;

(B) submit the required fee under §535.101 of this chapter (relating to Fees) or §535.210 of this chapter (relating to Fees);

(C) submit the statutory bond or other security acceptable to the Commission under §1101.302 of the Act; and

(D) maintain a fixed office in the state of Texas or designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas which the provider is required to maintain by this subchapter.

(2) The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request.

(3) An approved provider is permitted to offer courses in real estate, easement or right-of-way, and real estate inspection that have been approved by the Commission.

(b) Exempt Providers.

(1) The following persons may submit real estate qualifying courses for approval for credit in §535.62(i) of this subchapter (relating to Approval of Qualifying Courses) without becoming an approved provider of qualifying courses:

(A) a person approved by a real estate regulatory agency to offer qualifying real estate courses in another state that has approval requirements for providers that are substantially equivalent to the requirements for approval in this state;

(B) an accredited college or university in accordance with §535.66 of this subchapter (relating to Credit for Courses Offered by Accredited Colleges or Universities) where courses are offered in accordance with national or regional accreditation standards;

(C) a post-secondary educational institution established in and offering qualifying real estate courses in another state;

(D) a United States armed forces institute; and

(E) a nationally recognized professional designation institute or council in the real estate industry.

(2) The following persons may submit real estate inspector qualifying courses for approval for credit under §535.62(i) of this subchapter without becoming an approved provider of qualifying courses:

(A) a provider approved by an inspector regulatory agency of another state that has approval requirements for providers that are substantially equivalent to the requirements for approval in this state;

(B) an accredited college or university in accordance with §535.66 of this subchapter where courses are offered in accordance with national or regional accreditation standards;

(C) a United States armed forces institute;

(D) a unit of federal, state or local government;

(E) a nationally recognized building, electrical, plumbing, mechanical or fire code organization;

(F) a professional trade association in the inspection field or in a related technical field; or

(G) an entity whose courses are approved and regulated by an agency of this state.

(3) The following persons may submit easement or right-of-way qualifying courses for approval for credit in §535.62(i) of this subchapter without becoming an approved provider of qualifying courses:

(A) an accredited college or university in accordance with §535.66 of this subchapter where courses are offered in accordance with national or regional accreditation standards; and

(B) a United States armed forces institute.

(c) Standards for approval. To be approved as a provider by the Commission, the applicant must meet the following standards:

(1) the applicant must satisfy the Commission as to the applicant's ability to administer courses with competency, honesty, trustworthiness and integrity. If the applicant proposes to employ another person to manage the operation of the applicant, that person must meet this standard as if that person were the applicant;

(2) the applicant must demonstrate that the applicant has sufficient financial resources to conduct its proposed operations on a continuing basis without risk of loss to students taking courses; and

(3) that any proposed facilities will be adequate and safe for conducting courses.

(d) Financial review. An applicant shall provide the following information to enable the Commission to determine if an applicant has sufficient financial resources to conduct its proposed operations:

(1) business financial statements prepared in accordance with generally accepted accounting principles, which shall include a current income statement and balance sheet;

(2) a proposed budget for the first year of operation; and

(3) a market survey indicating the anticipated enrollment for the first year of operation.

(e) Insufficient financial condition. The existence of any of the following conditions shall constitute prima facie evidence that an applicant's financial condition is insufficient:

(1) nonpayment of a liability when due, if the balance due is greater than 5% of the approved provider's current assets in the current or prior accounting period;

(2) nonpayment of three or more liabilities when due, in the current or prior accounting period, regardless of the balance due for each liability;

(3) a pattern of nonpayment of liabilities when due, in two or more accounting periods, even if the liabilities ultimately are repaid;

(4) a current ratio of less than 1.75 for the current or prior accounting period, this ratio being total current assets divided by total current liabilities;

(5) a quick ratio of less than 1.60 for the current or prior accounting period, this ratio being the sum of all cash equivalents, marketable securities, and net receivables divided by total current liabilities;

(6) a cash ratio of less than 1.40 for the current or prior accounting period, this ratio being the sum of cash equivalents and marketable securities divided by total current liabilities;

(7) a debt ratio of more than .40 for the current or prior accounting period, this ratio being total liabilities divided by total assets;

(8) a debt-to-equity ratio of greater than .60 for the current or prior accounting period, this ratio being total liabilities divided by owners' or shareholders' equity;

(9) a final judgment obtained against the approved provider for nonpayment of a liability which remains unpaid more than 30 days after becoming final; or

(10) the execution of a writ of garnishment on any of the assets of the approved provider.

(f) Approval notice. An applicant shall not act as or represent itself to be an approved provider until the applicant has received written notice of approval from the Commission.

(g) Period of initial approval. The initial approval of a provider of qualifying courses is valid for four years.

(h) Statutory bond or other security. An approved provider whose statutory bond or other security has been cancelled will be placed on inactive status until the bond or security is reinstated.

(i) Payment of an annual operation fee.

(1) An approved provider shall submit the Commission approved form and pay an annual operation fee prescribed by §535.101 of this chapter no later than the last day of the month of each anniversary date of the provider's approval.

(2) An approved provider who fails to pay the annual operation fee as prescribed shall be placed on inactive status and notified in writing by the Commission.

(3) The approved provider will remain on inactive status and unable to offer courses until the annual fee is paid.

(4) The Commission will not give credit for courses offered by a provider on inactive status.

(j) Denial of application.

(1) If the Commission determines that an applicant does not meet the standards for approval, the Commission will provide written notice of denial to the applicant.

(2) The denial notice, applicant's request for a hearing on the denial, and any hearing are governed by the Administrative Procedure Act, Chapter 2001, Texas Government Code, and Chapter 533 of this title (relating to Practice and Procedure).

(k) Renewal.

(1) A provider may not enroll a student in a course during the 60-day period immediately before the expiration of the provider's current approval unless the provider has submitted an application for renewal for another four year period not later than the 60th day before the date of expiration of its current approval.

(2) Approval or disapproval of a renewal shall be subject to:

(A) the standards for initial applications for approval set out in this section; and

(B) whether the approved provider has met or exceeded the exam passage rate benchmark established by the Commission under subsection (l) of this section.

(3) The Commission will not require a financial review for renewal if the applicant has provided a statutory bond or other security acceptable to the Commission under §1101.302 of the Act, and there are no unsatisfied final money judgments against the applicant.

(4) The Commission may deny an application for renewal if the provider is in violation of a Commission order.

(l) Exam passage rates and benchmark.

(1) The exam passage rate for an approved provider shall be:

(A) calculated for each license category for which the provider offers courses and an examination is required; and

(B) displayed on the Commission website by license category.

(2) A student is affiliated with a provider under this subsection if the student took the majority of his or her qualifying education with the provider in the two year period prior to taking the exam for the first time.

(3) The Commission will calculate the exam passage rate of an approved provider on a monthly basis, rounded to two decimal places on the final calculated figure, by:

(A) determining the number of students affiliated with that approved provider who passed the examination on their first attempt in the two-year period ending on the last day of the previous month; and

(B) dividing that number by the total number of students affiliated with that provider who took the exam for the first time during that same period.

(4) For purposes of approving a renewal application under subsection (j) of this section, the established exam passage rate benchmark for each license category is 80% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month.

(5) If at the time the Commission receives a renewal application from the provider requesting approval for another four year term, the provider's exam passage rate does not meet the established benchmark for a license category the provider will be:

(A) denied approval to continue offering courses for that license category if the provider's exam passage rate is less than 50% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month; or

(B) placed on probation by the Commission if the provider's exam passage rate is greater than 50% but less than 80% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month.

(6) The exam passage rate of a provider on probation will be reviewed annually at the time the annual operating fee is due to determine if the provider can be removed from probation, remain on probation or have its license revoked, based on the criteria set out in paragraph (5) of this subsection.

§535.62. *Approval of Qualifying Courses.*

(a) Application for approval of a qualifying course.

(1) For each qualifying course a provider intends to offer, the provider must:

(A) submit the course application and course approval forms, including all materials required using a process acceptable to the Commission; and

(B) pay the fee required by §535.101 or §535.210 of this title.

(2) A provider may file a single application for a qualifying course offered through multiple delivery methods. A fee is required for content and examination review of each qualifying course and for each distinct delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved qualifying course must submit a new application and pay all required fees, including a fee for content and examination review.

(4) The Commission may:

(A) request additional information be provided to the Commission relating to an application;

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request; and

(C) prior to approval of a proposed qualifying real estate inspector course, submit the course to the Texas Real Estate Inspector Committee for review and recommendation.

(b) Standards for course approval. To be approved as a qualifying course by the Commission, a provider must satisfy the Commission that the course:

(1) covers all topics and units for the course subject required by the Act, Chapter 1102 and this chapter;

(2) covers all units within the prescribed topic;

(3) contains sufficient content to satisfy the number of hours for which credit is being requested as evidenced by:

(A) word count studies;

(B) samples of student time studies; or

(C) other methods acceptable to the Commission;

(4) will be scheduled for the full clock hours of time for which credit is awarded and presented in full hourly units;

(5) does not have daily course segments that exceed 12 hours;

(6) will be delivered by one of the following delivery methods:

(A) classroom delivery;

(B) distance education delivery; or

(C) a combination of (A) and (B) of this paragraph, if at least 50% of the combined course is offered by classroom delivery;

(7) include at a minimum, the following methods to assess a student's comprehension of the course material:

(A) topic quizzes, with at least three questions related to the subject matter in each course topic;

(B) at least one scenario-based learning exercise per every increment of 10 credit hours or less; and

(C) if the course is delivered by distance education delivery:

(i) prevent the student from moving from one topic to the next topic until the student answers all topic quiz questions correctly and receives a passing grade on the scenario based learning exercises; and

(ii) for quiz questions answered incorrectly, employ a method to present the rationale behind the correct answer and ask a subsequent related quiz question that will count toward passing the topic if answered correctly; and

(8) include at least four versions of a final examination, and ensure that each version of the examination:

(A) covers each topic required by the Act or Rules for the specific course;

(B) does not contain any true/false questions;

(C) does not repeat more than one third of the questions from other versions of the final examination;

(D) for all qualifying courses other than a real estate math course:

(i) consists of at least two questions per credit course hour; and

(ii) draws from a question bank consisting of at least four questions per credit course hour; and

(E) for all qualifying real estate math courses, consists of at least 20 questions that are drawn from a question bank consisting of at least 40 questions.

(c) If the course is currently certified by a distance learning certification center acceptable to the Commission, the provider will be deemed to have met requirements for verification of clock/course hours for distance education delivery.

(d) Approval of currently approved courses by a secondary provider.

(1) If a secondary provider wants to offer a course currently approved for another provider, the secondary provider must:

(A) submit, using a process acceptable to the Commission:

(i) the course application and approval forms including all materials required; and

(ii) [~~(B) submit written~~] authorization to the Commission from the owner of the rights to the course material granting permission for the secondary provider to offer the course; and

(B) [~~(C)~~] pay the fee required by §535.101 or §535.210 of this title.

(2) If approved to offer the previously approved course, the secondary provider is required to:

(A) offer the course as originally approved, assume the original expiration date, include any approved revisions, use all materials required for the course; and

(B) meet the requirements of §535.65 of this title.

(e) Required revision of a currently approved qualifying course.

(1) Providers are responsible for keeping current on changes to the Act and Commission Rules and must revise or supplement materials for approved courses when changes are adopted on or before the effective date of those statutes or rules.

(2) If the Commission adopts new requirements for a course, including but not limited to a course approval form that divides selected qualifying course subjects into topics and units, the Commission will determine, at the time the Commission adopts the new requirements, whether a provider must revise the course or

supplement the course. Any provider currently offering a course that is subject to change must:

(A) revise or supplement any currently approved classroom qualifying course covering that subject no later than 12 months after the effective date of the new requirements; and

(B) revise or supplement any currently approved qualifying course offered by distance or combination delivery no later than 15 months after the effective date of the new requirements.

(3) If the Commission determines that a qualifying course should be supplemented, a provider must submit the supplemental materials required by the Commission. No fee will be required and the course will maintain its original expiration date.

(4) If the Commission determines that a qualifying course should be revised, a provider must:

(A) submit the course application and approval forms including all materials required using a process acceptable to the Commission; and

(B) pay the fee required by §535.101 or §535.210 of this title.

(5) A provider may not offer a course for qualifying credit after the deadlines established by this subsection following a required revision or supplement if the provider has not received written approval from the Commission to offer the revised or supplemented course.

(6) If a provider paid a fee for the initial course approval, the provider will receive a prorated credit on the fee paid under this subsection for a revised course for the unexpired time remaining on that initial approval. The Commission will calculate the prorated credit by dividing the fee paid for the initial approval by 48 months and multiplying that amount by the number of full months remaining between the approval date of the revised course and the expiration date of the currently approved version of the course.

(7) A revised course approved under this subsection expires four years from the date of approval of the revision.

(8) No later than 90 days before the effective date of a revised or supplemented course, a provider shall send written notice to all students who have purchased the currently approved course and not completed it, that credit will no longer be given for the current course as of the effective date of the revised or supplemented course.

(9) If an approved provider fails to give the notice set out in paragraph (8) of this subsection, the provider shall allow the student to take the revised or supplemented course at no additional charge.

(f) Voluntary revision of a currently approved qualifying course.

(1) A provider who voluntarily revises a currently approved course, shall, prior to implementation of any course materials:

(A) file any updated course materials and revisions of the course outline with the Commission; and

(B) pay the fee required by §535.101 and §535.210 of this title.

(2) If after review the Commission is not satisfied with the updated course materials and revised course outline, the Commission may direct a provider to:

(A) further revise the materials;

(B) cease use of materials; or

(C) withdraw a course text.

(3) If a provider paid a fee for the initial course approval, the provider will receive a prorated credit on the fee paid under this subsection for the unexpired time remaining on that initial approval. The Commission will calculate the prorated credit by dividing the fee paid for the initial approval by 48 months and multiplying that amount by the number of full months remaining between the approval date of the revised course and the expiration date of the currently approved version of the course.

(4) A revised course approved under this subsection expires four years from the date of approval of the revision.

(5) No later than 90 days before the effective date of a revised course, a provider shall send written notice to all students who have purchased the currently approved course and not completed it, that credit will no longer be given for the current course as of the effective date of the revised course.

(6) If an approved provider fails to give the notice set out in paragraph (5) of this subsection, the provider shall allow the student to take the revised course at no additional charge.

(g) Approval and Expiration of approval.

(1) A Qualifying provider shall not offer qualifying education courses until the provider has received written notice of the approval from the Commission.

(2) A Qualifying course expires four years from the date of approval and providers must reapply and meet all current requirements of this Section to offer the course for another four years.

(3) Courses approved for use by a secondary [subsequent] provider under subsection (d) of this section or approved for additional delivery methods under subsection (a)(3) of this section expire on the same date that the originally approved course expires.

(h) Renewal of course approval.

(1) Not earlier than 90 days before the expiration of a course approval, a provider may apply for a renewal of course approval for another four-year period.

(2) Approval of an application to renew course approval shall be subject to the standards for initial approval set out in this section.

(3) The Commission may deny an application to renew course approval if the provider is in violation of a Commission order.

(i) Course preapproval for exempt providers.

(1) Providers exempt from approval by the Commission may submit courses to the Commission for preapproval by meeting the standards for course approval under this section, including submitting all applicable forms and fees.

(2) Any course offered by an exempt provider without preapproval by the Commission will be evaluated by the Commission to determine whether it qualifies for credit at such time as a student submits a course completion certificate to the Commission for credit.

(3) The Commission will determine whether or not a course offered by an exempt provider without preapproval by the Commission qualifies for credit using the standards set out under this section.

(4) An exempt provider may not represent that a course qualifies for credit by the Commission unless the exempt provider receives written confirmation from the Commission that the course has been preapproved for credit.

§535.64. *Content Requirements for Qualifying Real Estate Courses.*

(a) Mandatory qualifying courses. To be approved by the Commission, the following mandatory qualifying courses must contain the content outlined below:

(1) Principles of Real Estate I shall contain the topics and units outlined in the PRINS 1-1, Qualifying Real Estate Course Approval Form, Principles of Real Estate I, hereby adopted by reference.

(2) Principles of Real Estate II shall contain the topics and units outlined in the PRINS 2-1, Qualifying Real Estate Course Approval Form, Principles of Real Estate II, hereby adopted by reference.

(3) Law of Agency shall contain the topics and units outlined in the LOA-1, Qualifying Real Estate Course Approval Form, Law of Agency, hereby adopted by reference.

(4) Law of Contracts shall contain the topics and units outlined in the LOC-0, Qualifying Real Estate Course Approval Form, Law of Contracts, hereby adopted by reference.

(5) Promulgated Contract Forms shall contain the topics and units outlined in the PCF-0, Qualifying Real Estate Course Approval Form, Promulgated Contract Forms, hereby adopted by reference.

(6) Real Estate Finance shall contain the topics and units outlined in the REF-0, Qualifying Real Estate Course Approval Form, Real Estate Finance, hereby adopted by reference.

(7) Real Estate Brokerage (mandatory for a broker's license) shall contain the topics and units outlined in the REB-1, Qualifying Real Estate Course Approval Form, Real Estate Brokerage, hereby adopted by reference.

(b) Elective qualifying courses. To be approved by the Commission, the following elective qualifying courses must contain the content outlined below.

(1) Residential Property Management shall contain the topics and units outlined in the PROP-1, Qualifying Real Estate Course Approval Form, Residential Property Management, hereby adopted by reference.

(2) Real Estate Marketing shall contain the topics and units outlined in the REM-0, Qualifying Real Estate Course Approval Form, Real Estate Marketing, hereby adopted by reference.

(3) Real Estate Math shall contain the topics and units outlined in the REMath-0, Qualifying Real Estate Course Approval Form, Real Estate Math, hereby adopted by reference.

(4) Real Estate Appraisal shall contain the topics outlined in the REA-0, Qualifying Real Estate Course Approval Form, Real Estate Appraisal, hereby adopted by reference.

(5) Real Estate Investment shall contain the topics outlined in the REI-0, Qualifying Real Estate Course Approval Form, Real Estate Investment, hereby adopted by reference.

(6) Real Estate Law shall contain the topics outlined in the REL-0, Qualifying Real Estate Course Approval Form, Real Estate Law, hereby adopted by reference.

(7) Residential Inspection for Real Estate Agents shall contain the outlined in the RIREA-0, Qualifying Real Estate Course Approval Form, Residential Inspection for Real Estate Agents, hereby adopted by reference.

(8) A 30 hour advanced course on any qualifying course subject matter or a combination of several different qualifying course subject matter topics as set out in subsections (a) and (b) of this section.

(c) Course Approval forms. All forms adopted by this section are available from the Texas Real Estate Commission at [P.O. Box 12188, Austin, Texas 78711-2188;] www.trec.texas.gov.

§535.66. *Credit for Courses Offered by Accredited Colleges or Universities.*

(a) For the purposes of this section, an "accredited college or university" is defined as a college or university accredited by a regional accrediting association, such as the Commission on Colleges of the Southern Association of Colleges and Schools, or by a recognized national or international accrediting body.

(b) Exemption. Pursuant to §1101.301, Texas Occupations Code, the Commission does not approve qualifying educational programs or courses of study in real estate and real estate inspection offered by an accredited college or university; however, the Commission has the authority to determine whether a real estate or real estate inspection course satisfies the requirements of the Act and Chapter 1102.

(c) Credit for real estate courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university must meet the following requirements:

(1) cover the subject and topics listed in §1101.003, Texas Occupations Code, or §535.64 of this subchapter (relating to Content Requirements for Qualifying Real Estate Courses); and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association for verification of clock/course hours, design and delivery method.

(d) Credit for real estate inspector courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university meet the following requirements:

(1) meet the subject and topic definitions set out in §1102.001(5), Texas Occupations Code, as clarified by the Commission in §535.213 of this chapter (relating to Qualifying Real Estate Inspector Instructors and Courses); and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association for verification of clock/course hours, design and delivery method.

(3) any courses offered to fulfill the substitute experience requirements allowed under §1102.111 must meet the requirements set out in §535.214 of this chapter (relating to Education and Experience Requirements for a License).

(e) Credit for easement or right-of-way courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university must meet the following requirements:

(1) cover the subject and topics set out in §1101.509, Occupations Code, in substantially the same manner as clarified by the Commission in §535.68 of this subchapter (relating to Content Requirements for Easement or Right-of-Way Qualifying Course); and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association for verification of clock/course hours, design, and delivery method.

(f) Preapproval of a course offered under subsections (c), (d), or (e).

(1) An accredited college and university may submit qualifying courses to the Commission for preapproval by using a process acceptable to [filing a form approved by] the Commission.

(2) Any course offered by an accredited college or university without preapproval by the Commission will be evaluated by the Commission, using the standards set out in this section, to determine whether it qualifies for credit at such time as a student submits a transcript with the course to the Commission for credit.

(3) An accredited college or university may not represent that a course qualifies for credit by the Commission unless the accredited college or university receives written confirmation from the Commission that the course has been preapproved for credit.

(g) Required approval of qualifying courses not offered under subsections (c), (d), or (e) of this section or that are not subject to academic accreditation standards.

(1) To be eligible for credit from the Commission, a qualifying course offered by an accredited college and university that is not offered under subsections (c), (d), or (e) of this section or that is not subject to academic accreditation standards is required to be submitted for approval by the Commission in accordance with §535.62 of this subchapter (relating to Approval of Qualifying Courses), including payment of any fee required.

(2) An accredited college or university may not represent that a course qualifies for credit by the Commission unless the accredited college or university receives written confirmation from the Commission that the course has been approved.

(h) Complaints and audits.

(1) If the Commission receives a complaint, or is presented with other evidence acceptable to the Commission, alleging that an accredited college or university is not in compliance with their accreditation association's curriculum accreditation standards for a real estate, easement or right-of-way, or real estate inspection course offered under subsections (c), (d), or (e) of this section, or is not complying with the requirements of this subchapter for a real estate, easement or right-of-way, or real estate inspection course not offered under subsections (c), (d), or (e) of this section, the Commission may investigate the allegation and/or anonymously audit the course in question.

(2) If after an investigation and/or audit, the Commission determines that an accredited college or university is not in compliance with their accreditation association's curriculum accreditation standards for a real estate, easement or right-of-way, or real estate inspection course offered under subsections (c), (d), or (e), or is not complying with the requirements of this subchapter for a real estate, easement or right-of-way, or real estate inspection course not offered under subsections (c), (d), or (e) of this section, the Commission will no longer issue credit to applicants for that course.

(i) Required approval of CE program and courses. An accredited college or university is not exempt from approval for real estate and real estate inspection CE programs and courses and must comply with all requirements for approval for providers, courses and instructors required by Subchapter G of this chapter.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

TRD-202501569



SUBCHAPTER G. REQUIREMENTS FOR CONTINUING EDUCATION PROVIDERS, COURSES AND INSTRUCTORS

22 TAC §535.70, §535.72

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.70, Definitions, and §535.72, Approval of Non-elective Continuing Education Courses.

The proposed amendment to §535.70 removes the definition of "proctor." The proposed amendments to §535.72(g)(3)(B) remove the proctoring requirement for inspector non-elective continuing education course examinations for distance education delivery and make clarifying changes for rule consistency. Both changes were recommended out of concerns that: (i) the exam proctoring requirement was unnecessary; and (ii) the requirements generally are overly burdensome.

The proposed changes to §535.72(h)(1) are made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

The proposed amendments were recommended by the Education Standards Advisory Committee and the Texas Real Estate Inspector Committee.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated will be improved clarity and integrity in rule and processes for members of the public, including students, as well as education providers.

For each year of the first five years the proposed amendments are in effect the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;

- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§535.70. Definitions.

The following words and terms, when used in Subchapter G of this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Broker Responsibility Course--The course required by §1101.458 of the Act.
- (2) CE--Continuing education.
- (3) CE instructor--A person chosen by a provider to teach continuing education courses.
- (4) CE provider--Any person approved by the Commission; or specifically exempt by the Act, Chapter 1102, Texas Occupation Code, or Commission rule; that offers a course for which continuing education credit may be granted by the Commission to a license holder or applicant.
- (5) Classroom delivery--A method of course delivery where the instructor and students interact face to face and in real time, in either the same physical location, or through the use of technology.
- (6) Distance education delivery--A method of course delivery other than classroom delivery, including online and correspondence delivery.
- (7) Combination delivery--A combination of classroom and distance education where at least 50% of the course is offered through classroom delivery.
- (8) Elective CE course--A continuing education course, other than a Non-elective CE course, approved by the Commission as acceptable to fulfil the continuing education hours needed to renew a license.
- (9) Non-elective CE course--A continuing education course, for which the subject matter of the course is specifically mandated by the Act, Chapter 1102, or Commission rule, that a license holder is required to take prior to renewal of a license.
- (10) Legal Update Courses--Required courses created for and approved by the Texas Real Estate Commission to satisfy the eight hours of continuing education required by §1101.455 of the Act.

(11) Person--Any individual, partnership, corporation, or other legal entity, including a state agency or governmental subdivision.

~~[(12) Proctor--A person who monitors a final examination for a course offered by a provider under the guidelines contained in this section. A proctor may be a course instructor, the provider, an employee of a college or university testing center, a librarian, or other person approved by the Commission.]~~

§535.72. *Approval of Non-elective Continuing Education Courses.*

(a) General requirements.

(1) The non-elective continuing education courses must be conducted as prescribed by the rules in this subchapter.

(2) Elective continuing education courses are approved and regulated under §535.73 of this subchapter (relating to Approval of Elective Continuing Education Courses).

(b) Application for approval to offer non-elective real estate or inspector CE courses.

(1) A CE provider seeking to offer a specific non-elective real estate or inspector CE course as outlined in this section shall:

(A) for a non-elective real estate course:

(i) submit a Real Estate Non-Elective Continuing Education CE Course Application to the Commission; and

(ii) pay the fee required by §535.101 of this chapter (relating to Fees); and

(B) for a non-elective real estate inspection course:

(i) submit an Inspector Non-Elective Continuing Education CE Course Application to the Commission; and

(ii) pay the fee required by §535.210 of this chapter (relating to Fees).

(2) A provider may file a single application for a CE course offered through multiple delivery methods. A fee is required for content review of each CE course and for each distinct delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved CE course must submit a new application, and pay all required fees, including a fee for content review.

(4) The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request.

(c) Commission approval of non-elective course materials. Every two years, the Commission shall approve subject matter and course materials to be used for the following non-elective continuing education courses:

(1) a four-hour Legal Update I: Laws, Rules and Forms course;

(2) a four-hour Legal Update II: Agency, Ethics and Hot Topics course;

(3) a six-hour Broker Responsibility course; and

(4) an eight-hour Inspector Legal and Ethics and Standards of Practice Review course.

(d) Course expiration.

(1) Each legal update course expires on December 31 of each odd-numbered year.

(2) Each broker responsibility course expires on December 31 of each even-numbered year.

(3) Each Inspector Legal and Ethics and Standards of Practice Review course expires on August 31 of each odd-numbered year.

(e) Delivery method. Non-elective CE courses must be delivered by one of the following delivery methods:

(1) classroom delivery;

(2) distance education delivery; or

(3) a combination of (1) and (2) of this subsection if at least 50% of the combined course is offered by classroom delivery.

(f) Except as provided in this section, non-elective CE courses must meet the presentation requirements of §535.65(g) of this chapter (relating to Responsibilities and Operations of Providers of Qualifying Courses). The provider must submit a course completion roster in accordance with §535.75(d) of this subchapter (relating to Responsibilities and Operations of Continuing Education Providers). Non-elective real estate courses are designed by the Commission for interactive classroom delivery. Acceptable demonstration of methods to engage students in interactive discussions and activities to meet the course objectives and time requirements are required for approval.

(g) Course examinations. A provider must administer a final examination promulgated by the Commission for non-elective CE courses.

(1) Real estate non-elective CE courses. The examination will be included in course instruction time. Each student will complete the examination independently followed by a review of the correct answers by the instructor. There is no minimum passing grade required to receive credit.

(2) Inspector non-elective CE courses for classroom delivery.

(A) The examination will be given as a part of class instruction time with each student answering the examination questions independently followed by a review of the correct answers by the instructor.

(B) A student is not required to receive a passing grade on the examination to receive course credit.

(3) Inspector non-elective CE courses for distance education delivery.

(A) An examination is required after completion of regular course work.

(B) The examination must be:

~~[(i) proctored by a member of the provider faculty or staff, or third party proctor set out in §535.65(h)(5) of this chapter, who is present at the test site and has positively identified that the student taking the examination is the student who registered for and took the course; or]~~

(i) ~~[(ii)]~~ administered ~~[using a computer]~~ under conditions ~~[that satisfy the Commission]~~ that ensure the student taking the examination is the student who registered for and took the course; and

~~[(ii) [(iii)] kept confidential.]~~

(C) A provider may permit a student to take one subsequent final examination if the student fails the initial final examination. The subsequent final examination must be:

- (i) different from the initial final examination; and
- (ii) completed no later than the 30th day after the date the original course concludes.

(D) Credit will not be awarded to a student for a course where the student receives a pass rate on a final examination or subsequent final exam below 70%.

(E) A student who fails the subsequent final course examination is required to retake the course and the final course examination.

(h) Approval of currently approved courses by a secondary provider.

(1) If a CE provider wants to offer a course currently approved for another provider, that secondary provider must:

(A) submit, using a process acceptable to the Commission:

and

(i) the CE course application supplement form(s);

(ii) [~~(B) submit written~~] authorization to the Commission from the provider for whom the course was initially approved granting permission for the subsequent provider to offer the course; and

(B) [~~(C)~~] pay the fee required by §535.101 of this chapter or §535.210 of this chapter.

(2) If approved to offer the currently approved course, the secondary provider is required to:

(A) offer the course as originally approved, assume the original expiration date, include any approved revisions, use all materials required for the course; and

(B) meet the requirements of §535.75 of this subchapter.

(i) Approval notice. A CE Provider shall not offer non-elective continuing education courses until the provider has received written notice of the approval from the Commission.

(j) Required revision of a currently approved non-elective CE course. Providers are responsible for keeping current on changes to the Act and Commission rules and must supplement materials for approved non-elective CE courses to present the current version of all applicable statutes and rules on or before the effective date of those changes.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

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Abby Lee

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3057



22 TAC §§535.71, 535.73, 535.75

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.71, Approval of CE Providers; §535.73, Approval of Elective Continuing Education Courses; and §535.75, Responsibilities and Operations of Continuing Education Providers, in Chapter 535, General Provisions.

The proposed changes are made, in part, as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, rule language is clarified to reflect this change.

The proposed changes to §535.75(d)(1) remove the specific requirements for a distance education delivery course completion roster. This requirement is no longer necessary because of the Commission's continuing education posting system. Additionally, language in subsection (d)(1)(B)(viii) and (d)(1)(C) is being removed to better reflect agency process and requirements.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§535.71. *Approval of CE Providers.*

(a) Application for approval.

(1) A person desiring to be approved by the Commission to offer real estate, easement or right-of-way, or real estate inspection continuing education courses shall:

(A) file an application using a process acceptable to [on the appropriate form approved by] the Commission, with all required documentation;

(B) submit the required fee under §535.101 of this chapter (relating to Fees) or §535.210 of this chapter (relating to Fees); and

(C) maintain a fixed office in the state of Texas or designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas which the continuing education provider is required to maintain by this subchapter.

(2) The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission sends the request.

(3) A CE provider is permitted to offer continuing education courses in real estate, easement or right-of-way, and real estate inspector that have been approved by the Commission.

(b) Standards for approval. To be approved by the Commission to offer real estate, easement or right-of-way, or real estate inspector continuing education courses, the applicant must satisfy the Commission as to the applicant's ability to administer courses with competency, honesty, trustworthiness, and integrity. If the applicant proposes to employ another person to manage the operation of the applicant, that person must meet this standard as if that person were the applicant.

(c) Approval notice. An applicant shall not act as or represent itself to be an approved CE provider until the applicant has received written notice of the approval from the Commission.

(d) Period of initial approval. The initial approval of a CE provider is valid for two years.

(e) Denial.

(1) If the Commission determines that an applicant does not meet the standards for approval, the Commission will provide written notice of denial to the applicant.

(2) The denial notice, applicant's request for a hearing on the denial, and any hearing are governed by the Administrative Procedure Act, Chapter 2001, Texas Government Code, and Chapter 533 of this title (relating to Practice and Procedure).

(f) Renewal.

(1) Not earlier than 90 days before the expiration of its current approval, an approved provider may apply for renewal for another two year period.

(2) Approval or disapproval of a renewal application shall be subject to the standards for initial applications for approval set out in this section.

(3) The Commission may deny an application for renewal if the provider is in violation of a Commission order.

§535.73. *Approval of Elective Continuing Education Courses.*

(a) General requirements.

(1) This subsection applies to continuing education providers seeking to offer an elective CE course approved by the Commission.

(2) Non-elective CE courses are approved and regulated under §535.72 of this subchapter (related to Approval of Non-elective Continuing Education Courses).

(b) Application for approval of an elective CE course.

(1) For each continuing education course an applicant intends to offer, the applicant must:

(A) submit the appropriate CE Course Application using a process acceptable to the Commission [form];

(B) pay the fee required by §535.101 (relating to Fees) and §535.210 of this title (relating to Fees); and

(C) submit a timed course outline that includes:

(i) course topics;

(ii) assignments and activities, if applicable;

(iii) topic or unit quizzes, if applicable; and

(iv) the amount of time dedicated for each item listed in clauses (i) - (iii) of this subparagraph.

(2) A provider may file a single application for a CE course offered through multiple delivery methods. A fee is required for content review of each CE course and for each distinct delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved CE course must submit a new application and pay all required fees, including a fee for content review.

(4) The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request.

(c) Standards for course approval of elective CE course.

(1) To be approved as an elective CE course by the Commission, the course must:

(A) cover subject matter appropriate for a continuing education course for real estate, easement or right-of-way, or real estate inspection license holders;

(B) be current and accurate; and

(C) be at least one hour long with daily presentations no more than 10 hours long.

(2) A provider must demonstrate that a course meets the requirements under paragraph (1) of this subsection by submitting a statement describing the objective of the course and the relevance of the subject matter to activities for which a real estate, easement or right-of-way, or inspector license is required, including but not limited to relevant issues in the real estate market or topics which increase or support the license holder's development of skill and competence.

(3) The course must be presented in full hourly units.

(4) The course must be delivered by one of the following delivery methods:

- (A) classroom delivery;
- (B) distance education delivery; or
- (C) a combination of (A) and (B), if at least 50% of the combined course is offered by classroom delivery.

(d) Approval notice. A CE provider shall not offer elective continuing education courses until the provider has received written notice of the approval from the Commission.

(e) Renewal of elective CE course approval.

(1) An elective CE course expires two years from the date of approval.

(2) Not earlier than 90 days before the expiration of a course approval, a provider may apply for a renewal of course approval for another two-year period.

(3) Approval of an application to renew an elective CE course approval shall be subject to the standards for initial approval set out in this section.

(4) The Commission may deny an application to renew an elective CE course approval if the provider is in violation of a Commission order.

(f) Approval of currently approved courses by a subsequent provider.

(1) If a CE provider wants to offer a course currently approved for another provider, that subsequent provider must:

(A) submit, using a process acceptable to the Commission:

(i) the applicable course approval form(s); and

(ii) [~~(B)~~ submit written] authorization to the Commission from the owner of the rights to the course material granting permission for the subsequent provider to offer the course; and

(B) [~~(C)~~] pay the fee required by §535.101 or §535.210 of this title.

(2) If approved to offer the currently approved course, the subsequent provider is required to:

(A) offer the course as originally approved, with any approved revisions, using all materials required for the course; and

(B) meet the requirements of §535.75 of this subchapter (relating to Responsibilities and Operations of Continuing Education Providers).

§535.75. Responsibilities and Operations of Continuing Education Providers.

(a) Except as provided by this section, CE providers must comply with the responsibilities and operations requirements of §535.65 of this chapter (relating to Responsibilities and Operations of Providers of Qualifying Courses).

(b) Use of Qualified Instructor.

(1) Except as provided by this subsection, a CE provider must use an instructor that:

(A) is currently qualified under §535.74 of this subchapter (relating to Qualifications for Continuing Education Instructors); and

(B) has expertise in the subject area of instruction and ability as an instructor;

(2) A CE instructor shall teach a course in substantially the same manner represented to the Commission in the instructor's manual or other documents filed with the application for course approval form;

(3) A CE provider may use the services of a guest instructor who is not qualified under §535.74 of this subchapter for real estate, easement or right-of-way, or inspector elective CE courses provided that:

(A) the guest instructor instructs for no more than a total of 50% of the course; and

(B) a CE instructor qualified under §535.74 of this subchapter remains in the classroom during the guest instructor's presentation.

(4) A CE provider may use the services of a guest instructor who is not qualified under §535.74 of this subchapter for 100% of a real estate, easement or right-of-way, or inspector elective CE courses provided that:

(A) The CE provider is:

(i) an accredited college or university;

(ii) a professional trade association that is approved by the Commission as a CE provider under §535.71 of this subchapter (relating to Approval of Continuing Education Providers); or

(iii) an entity exempt under §535.71 of this subchapter; and

(B) the course is supervised and coordinated by a CE instructor qualified under §535.74 of this subchapter who is responsible for verifying the attendance of all who request CE credit.

(c) CE course examinations.

(1) For real estate CE courses, examinations are only required for non-elective CE courses and must comply with the requirements in §535.72(g) of this subchapter (relating to Approval of Non-elective Continuing Education Courses) and have a minimum of four questions per course credit hour.

(2) For inspector CE courses, examinations are only required for CE courses offered through distance education delivery and must comply with the requirements in §535.72(g) of this subchapter and have a minimum of four questions per course credit hour.

(d) Course completion roster. Upon completion of a course, a CE provider shall submit a class roster to the Commission as outlined by this subsection.

(1) [~~Classroom delivery.~~]

[(A)] A provider shall maintain a course completion roster and submit information contained in the roster by electronic means acceptable to the Commission not sooner than the number of course credit hours has passed and not later than the 10th calendar day after the date a course is completed.

(2) [~~(B)~~] A course completion roster shall include:

(A) [~~(i)~~] the provider's name and license;

(B) [~~(ii)~~] a list of all instructors whose services were used in the course;

(C) [~~(iii)~~] the course title;

(D) [~~(iv)~~] the course numbers;

- (E) [(v)] the number of classroom credit hours;
- (F) [(vi)] the course delivery method; and
- (G) [(vii)] the dates the student started and completed the course.]; and]

~~[(viii) the signature of an authorized representative of the provider for whom an authorized signature is on file with the Commission.]~~

~~[(C) The Commission shall not accept unsigned course completion rosters.]~~

~~[(2) Distance education delivery. A provider shall maintain a Distance Education Reporting form and submit information contained in that form by electronic means acceptable to the Commission, for each student completing the course not sooner than the number of course credit hours has passed after the student starts the course and not later than the 10th calendar day after the student completed the course.]~~

(3) A provider may withhold any official completion documentation required by this subsection from a student until the student has fulfilled all financial obligations to the provider.

(4) A provider shall maintain adequate security against forgery for official completion documentation required by this subsection.

(e) Maintenance of records. Maintenance of CE provider's records is governed by this subsection.

(1) A CE provider shall maintain records of each student enrolled in a course for a minimum of four years following completion of the course, including course and instructor evaluations and student enrollment agreements.

(2) All records may be maintained electronically but must be in a common format that is legible and easily printed or viewed without additional manipulation or special software.

(3) A CE provider shall maintain any comments made by the provider's management relevant to instructor or course evaluations with the provider's records.

(4) Upon request, a CE provider shall produce instructor and course evaluation forms for inspection by Commission staff.

(f) Changes in ownership or operation of an approved CE Provider. Changes in ownership or operation of an approved CE provider are governed by this subsection.

(1) An approved provider shall obtain the approval of the Commission at least 30 days in advance of any material change in the operation of the provider, including but not limited to changes in:

- (A) ownership;
- (B) management; and
- (C) the location of the main office and any other locations where courses are offered.

(2) An approved provider requesting approval of a change in ownership shall provide a CE Provider Application including all required information and the required fee.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

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Abby Lee
 General Counsel
 Texas Real Estate Commission
 Earliest possible date of adoption: June 22, 2025
 For further information, please call: (512) 936-3057



SUBCHAPTER I. LICENSE RENEWAL

22 TAC §535.91

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.91, Renewal of a Real Estate License, in Chapter 535, General Provisions.

The proposed change is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change. This includes removing language from subsection (c) that is no longer necessary in light of the online application process and renumbering accordingly, as well as a clarifying change in subsection (b)(1) to simplify the calculation of the time period.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§535.91. Renewal of a Real Estate License.

(a) Renewal application.

(1) A real estate license expires on the date shown on the face of the license issued to the license holder.

(2) If a license holder intends to renew an unexpired license, the license holder must, on or before the expiration date of the current license:

(A) file a renewal application using a process acceptable to [through the online process on the Commission's website or on the applicable form approved by] the Commission;

(B) submit the appropriate fee required by §535.101 of this chapter (relating to Fees);

(C) comply with the fingerprinting requirements under the Act; and

(D) except as provided for in subsections (f) and (g) [~~(g)~~ and (h)] of this section, satisfy the continuing education requirements applicable to that license.

(3) The Commission may request additional information be provided to the Commission in connection with a renewal application.

(4) A license holder is required to provide information requested by the Commission not later than the 30th day after the date the Commission requests the information. Failure to provide information is grounds for disciplinary action.

(b) Renewal Notice.

(1) The Commission will deliver a license renewal notice to a license holder 90 days [three months] before the expiration of the license holder's current license.

(2) If a license holder intends to renew a license, failure to receive a license renewal notice from the Commission does not relieve a license holder from the requirements of this subsection.

(3) The Commission has no obligation to notify any license holder who has failed to provide the Commission with the person's mailing address and email address or a corporation, limited liability company, or partnership that has failed to designate an officer, manager, or partner who meets the requirements of the Act.

(c) [~~Timely renewal of a license.~~]

~~[(1) A renewal application for an individual broker or sales agent is filed timely if it is received by the Commission, or postmarked, on or before the license expiration date.]~~

~~[(2) A renewal application for a business entity broker is filed timely, if the application and all required supporting documentation is received by the Commission, or postmarked, not later than the 10th business day before the license expiration date.]~~

~~[(3) If the license expires on a Saturday, Sunday or any other day on which the Commission is not open for business, a renewal~~

~~application is considered to be filed timely if the application is received or postmarked no later than the first business day after the expiration date of the license.]~~

~~[(d)] Initial renewal of sales agent license. A sales agent applying for the first renewal of a sales agent license must:~~

~~(1) successfully complete the additional educational requirements of §535.55 of this chapter (relating to Education and Sponsorship Requirements for a Sales Agent License) before the sales agent files the renewal application; and~~

~~(2) fulfill the continuing education requirements of §535.92(a)(1), (a)(2), and (a)(4) of this chapter (relating to Continuing Education Requirements), if applicable.~~

~~(d) [(e)] Renewal of license issued to a business entity. The Commission will not renew a license issued to a business entity unless the business entity:~~

~~(1) has designated a corporate officer, an LLC manager, an LLC member with managing authority, or a general partner who:~~

~~(A) is a licensed broker in active status and good standing with the Commission; and~~

~~(B) completes any applicable continuing education required under §535.92 of this chapter;~~

~~(2) maintains errors and omissions insurance with a minimum annual limit of \$1 million per occurrence if the designated broker owns less than 10 percent of the business entity; and~~

~~(3) is currently eligible to transact business in Texas.~~

~~(e) [(f)] Renewal and pending complaints.~~

~~(1) The Commission may renew the current license of a license holder that has a complaint pending with the Commission, provided the license holder meets all other applicable requirements of this section.~~

~~(2) Upon completion of the investigation of the pending complaint, the Commission may suspend or revoke the license, after notice and hearing in accordance with the Administrative Procedure Act, Chapter 2001, Texas Government Code.~~

~~(f) [(g)] Renewal on inactive status.~~

~~(1) A license holder may renew a license on inactive status.~~

~~(2) A license holder is not required to complete continuing education courses as a condition of renewing a license on inactive status, but must satisfy continuing education requirements before returning to active status.~~

~~(g) [(h)] Renewal with deferred continuing education.~~

~~(1) A license holder may renew an active license without completion of required continuing education and may defer completion of any outstanding continuing education requirements for an additional 60 days from the expiration date of the current license if the license holder:~~

~~(A) meets all other applicable requirements of this section; and~~

~~(B) pays the continuing education deferral fee required by §535.101 of this chapter at the time the license holder files the renewal application with the Commission.~~

~~(2) If after expiration of the 60 day period set out in paragraph (1) of this subsection, the Commission has not been provided with evidence that the license holder has completed all outstanding~~

continuing education requirements, the license holder's license will be placed on inactive status.

(3) Credit for continuing education courses for a subsequent licensing period does not accrue until after all deferred continuing education has been completed for the current licensing period.

(h) ~~[(h)]~~ Late Renewal.

(1) Subject to the requirements of this subsection and §1101.451(c) of the Act, a license holder may late renew a license after the expiration date of that license if:

(A) the license has been expired for less than six months; ~~[-]~~

(B) the license holder files the application to renew using a process acceptable to ~~on a form approved by~~ the Commission for that purpose; and

(C) the license holder submits the required fees under §535.101 of this chapter.

(2) Provided the license holder meets all the requirements of paragraph (1) of this subsection, the Commission will renew the license on inactive status.

(i) ~~[(i)]~~ License Reinstatement.

(1) If a license has been expired for more than six months, a license holder may not renew the license.

(2) A license holder may reinstate an expired license if the license holder:

(A) has held an individual broker or sales agent license in this state within the two years preceding the date the reinstatement application is filed;

(B) submits the required fees under §535.101 of this chapter; and

(C) satisfies the Commission as to the applicant's honesty, trustworthiness, and integrity.

(3) An applicant for reinstatement is not required to take an examination.

(4) Provided the license holder meets the requirements of paragraph (2) of this subsection, the Commission will reinstate:

(A) a broker license on active status if the continuing education that would have been required for a timely renewal during the two years preceding the date the application is filed is completed, except as provided in paragraph (5) of this subsection;

(B) a sales agent license on inactive status.

(5) A broker may file an application to reinstate a license on inactive status under this subsection.

(j) ~~[(k)]~~ Reactivation of a license on inactive status under this section is governed by Subchapter L of this chapter (relating to Inactive License Status).

(k) ~~[(l)]~~ Denial of Renewal. The Commission may deny an application for renewal of a license if the license holder is in violation of the terms of a Commission order.

(l) ~~[(m)]~~ Renewal of license for military service member. A license holder on active duty in the United States armed forces is entitled to two years of additional time to renew an expired license without being subject to any increase in fee, any education or experience requirements or examination if the license holder:

(1) provides a copy of official orders or other official documentation acceptable to the Commission showing that the license holder was on active duty during the license holder's last renewal period; and

(2) pays the renewal application fee in effect when the previous license expired.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Abby Lee

General Counsel

Texas Real Estate Commission

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SUBCHAPTER L. INACTIVE LICENSE STATUS

22 TAC §§535.121 - 535.123

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.121, Inactive Sale Agent License; §535.122, Reactivation of Sales Agent License; and §535.123, Inactive Broker Status, in Chapter 535, General Provisions.

The proposed change is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Chapter 1101, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§535.121. *Inactive Sales Agent License.*

(a) The license of a sales agent becomes inactive upon:

- (1) the death of the sales agent's sponsoring broker;
- (2) the expiration, suspension, revocation or inactivation of the license of the sponsoring broker;
- (3) if the sponsoring broker is a business entity, the dissolution of the entity or the forfeiture of its charter;
- (4) if the sponsoring broker is a business entity, the expiration, suspension, revocation, or inactivation of the license of the designated broker of the entity;
- (5) termination of sponsorship by the sales agent or sponsoring broker;
- (6) failure to timely complete continuing education required under the Act and this chapter; or
- (7) receipt by the Commission of an application for inactive status.

(b) If the broker intends to terminate the sponsorship, the broker must immediately:

- (1) notify the sales agent in writing; and
- (2) terminate the sponsorship using a process acceptable to;

~~[(A)] [through the online process approved by] the Commission;~~ ~~or~~

~~[(B)] [on the appropriate form delivered to the Commission].~~

(c) If the sales agent intends to terminate the sponsorship, the sales agent must immediately:

- (1) notify the broker in writing; and
- (2) terminate the sponsorship using a process acceptable to;

~~[(A)] [through the online process approved by] the Commission.~~ ~~;~~ ~~or~~

~~[(B)] on the appropriate form delivered to the Commission.]~~

(d) If a sponsorship is terminated using the process ~~[on a form]~~ under this section, the effective date of the termination of the sponsorship is the date the Commission receives the termination ~~[completed form]~~ and any applicable fee.

(e) It is the responsibility of the sales agent on inactive status to pay all required license renewal fees timely to prevent the inactive license from expiring.

§535.122. *Reactivation of Sales Agent License.*

In order to reactivate a license on inactive status, the license holder must:

(1) provide the Commission with documentation that the license holder has satisfied all continuing education requirements under the Act and this chapter;

(2) certify using a process ~~;~~ ~~on a form]~~ acceptable to the Commission ~~;~~ that the license holder has not engaged in activity requiring a license at any time after the license became inactive;

(3) establish a sponsorship relationship with a broker using a process acceptable by the Commission ~~;~~

~~[(A)] through the online process approved by the Commission; or~~

~~[(B)] [following receipt by the Commission of the applicable sales agent sponsorship form signed by the sales agent and the sponsoring broker]; and~~

(4) pay the appropriate fee.

§535.123. *Inactive Broker Status.*

(a) The license of an individual broker becomes inactive when:

- (1) the Commission receives an application for inactive status from the broker; or
- (2) the broker is placed on inactive status by the Commission for failure to comply with a requirement of the Act or this chapter.

(b) The license of a business entity broker becomes inactive when:

- (1) the Commission receives an application for inactive status from the broker;
- (2) the entity is not qualified to transact business in Texas;
- (3) the designated broker's license:
 - (A) expires;
 - (B) is suspended, including a probated suspension; or
 - (C) is revoked, including a probated revocation; or
- (4) the designated broker dies or resigns as designated broker, except as provided in §535.124 of this subchapter (relating to Death of a Designated Broker).

(c) The broker must confirm using a process acceptable to the Commission ~~[in writing]~~ that the broker has given all sales agents sponsored by the broker written notice of termination of sponsorship at least 30 days before filing the application for inactive status.

(d) It is the responsibility of the broker on inactive status to pay all required license renewal fees timely to prevent the inactive license from expiring.

(e) To return to active status, a broker on inactive status must apply to the Commission for return to active status using a process ac-

ceptable to [on a form approved by] the Commission, pay the appropriate fee, and satisfy any continuing education requirements under the Act and this chapter.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER N. SUSPENSION AND REVOCAION OF LICENSURE

22 TAC §535.154

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.154, Registration and Use of Alternate, Team and Assumed Business Names Used in Advertisements, in Chapter 535, General Provisions.

The proposed amendments to §535.154 are made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal are Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.154. Registration and Use of Alternate, Team and Assumed Business Names Used in Advertisements.

(a) Definitions. For the purposes of this section:

(1) "Advertisement" has the meaning assigned by §535.155 of this chapter (relating to Advertisements).

(2) "Alternate name" (commonly known as an alias) means a name used by an individual license holder other than the name shown on the license issued by the Commission, such as a middle name, maiden name, or nickname. It does not include a common derivative of a name, such as Kim for Kimberly or Bill for William, which is considered the same as the name shown on the license.

(3) "Associated broker" means a broker who associates with and gets paid through another broker under a relationship that is intended to be a continuous relationship, including but not limited to, an employment or ongoing independent contractor relationship.

(4) "Assumed business name" (commonly known as a DBA or trade name) means any name used in business by a broker that meets the requirements of subsection (d) of this section, other than the name shown on the broker's license issued by the Commission, a team name, or an alternate name.

(5) "Team name" means a name used by a group of one or more license holders sponsored by or associated with the same broker that performs real estate activities under an exclusive collective name other than the broker's licensed name or assumed business name.

(b) Alternate names.

(1) Before a license holder starts using an alternate name in an advertisement, the license holder must register the name with the Commission using a process acceptable to [on a form approved by] the Commission.

(2) The Commission may request supporting documentation evidencing the legal authority to use the alternate name if the last name submitted is different from the last name shown on the license issued by the Commission.

(3) A license holder must notify the Commission using a process acceptable to the Commission, and their sponsoring broker, not later than the 10th day after the date the license holder stops using an alternate name.

(c) Team names:

(1) A team name may not include any terms that could mislead the public to believe that the team is offering brokerage services independent from its sponsoring broker.

(2) A team name must end with the word "team" or "group".

(3) Before an associated broker or a sales agent sponsored by a broker starts using a team name in an advertisement, the broker must register the name with the Commission using a process acceptable to [on a form approved by] the Commission.

(4) A broker must notify the Commission using a process acceptable to the Commission [in writing] not later than the 10th day after the date the associated broker or a sales agent sponsored by the broker stops using a team name.

(d) Assumed business names.

(1) Before a broker, associated broker or a sales agent sponsored by a broker starts using an assumed business name of the broker in an advertisement, the broker must:

(A) register the name with the Commission using a process acceptable to [on a form approved by] the Commission; and

(B) provide written evidence of legal authority to use the assumed business name in Texas, such as registration of the name with the Secretary of State or county clerk's office.

(2) A broker must notify the Commission using a process acceptable to the Commission [in writing] not later than the 10th day after the date the broker stops using an assumed business name.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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General Counsel

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SUBCHAPTER Q. ADMINISTRATIVE PENALTIES

22 TAC §535.191

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.191, Schedule of Administrative Penalties, in Chapter 535, General Provisions.

The proposed amendment in §535.191 is made to reflect a corresponding change in §535.91, which removed subsection (c) of that section and renumbered the subsequent subsections accordingly.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendment. There is no significant economic cost anticipated for persons who are re-

quired to comply with the proposed amendment. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendment is in effect, the amendment will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendment is also proposed under Texas Occupations Code, §1101.702, which requires the Commission adopt by rule a schedule of administrative penalties.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendment.

§535.191. *Schedule of Administrative Penalties.*

(a) The Commission may suspend or revoke a license or take other disciplinary action authorized by the Act in addition to or instead of assessing the administrative penalties set forth in this section.

(b) The administrative penalties set forth in this section take into consideration all of the criteria listed in §1101.702(b) of the Act.

(c) An administrative penalty range of \$100 - \$1,500 per violation per day may be assessed for violations of the following sections of the Act and Rules:

(1) §1101.552;

(2) §1101.652(a)(3);

(3) §1101.652(a)(8);

(4) §1101.652(a-1)(3);

(5) §1101.652(b)(23);

- (6) §1101.652(b)(29);
- (7) §1101.652(b)(33);
- (8) 22 TAC §535.21(a);
- (9) 22 TAC §535.53;
- (10) 22 TAC §535.65;
- (11) 22 TAC §535.91(c)(~~d~~);
- (12) 22 TAC §535.121;
- (13) 22 TAC §535.154;
- (14) 22 TAC §535.155;
- (15) 22 TAC §535.157; and
- (16) 22 TAC §535.300.

(d) An administrative penalty range of \$500 - \$3,000 per violation per day may be assessed for violations of the following sections of the Act and Rules:

- (1) §§1101.652(a)(4) - (7);
- (2) §1101.652(a-1)(2);
- (3) §1101.652(b)(1);
- (4) §§1101.652(b)(7) - (8);
- (5) §1101.652(b)(12);
- (6) §1101.652(b)(14);
- (7) §1101.652(b)(22);
- (8) §1101.652(b)(28);
- (9) §§1101.652(b)(30) - (31);
- (10) §1101.654(a);
- (11) 22 TAC §531.18;
- (12) 22 TAC §531.20;
- (13) 22 TAC §535.2;
- (14) 22 TAC §535.6(c) - (d);
- (15) 22 TAC §535.16;
- (16) 22 TAC §535.17; and
- (17) 22 TAC §535.144.

(e) An administrative penalty range of \$1,000 - \$5,000 per violation per day may be assessed for violations of the following sections of the Act and Rules:

- (1) §1101.351;
- (2) §1101.366(d);
- (3) §1101.557(b);
- (4) §1101.558;
- (5) §§1101.559(a) and (c);
- (6) §1101.560;
- (7) §1101.561(b);
- (8) §1101.615;
- (9) §1101.651;
- (10) §1101.652(a)(2);

- (11) §1101.652(a-1)(1);
- (12) §§1101.652(b)(2) - (6);
- (13) §§1101.652(b)(9) - (11);
- (14) §1101.652(b)(13);
- (15) §§1101.652(b)(15) - (21);
- (16) §§1101.652(b)(24) - (27);
- (17) §1101.652(b)(32);
- (18) 22 TAC §535.141(f);
- (19) 22 TAC §§535.145 - 535.148; and
- (20) 22 TAC §535.156.

(f) The Commission may assess an additional administrative penalty of up to two times that assessed under subsections (c), (d) and (e) of this section, subject to the maximum penalties authorized under §1101.702(a) of the Act, if a person has a history of previous violations.

(g) Payment of an administrative penalty must be submitted in a manner acceptable to the Commission. Payments authorized to be submitted online may be subject to fees set by the Department of Information Resources that are in addition to the administrative penalty assessed by the Commission.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER R. REAL ESTATE INSPECTORS

22 TAC §§535.208, 535.215, 535.216, 535.218

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.208, Application for a License; §535.215, Inactive Inspector Status; §535.216, Renewal of License; and §535.218, Continuing Education Required for Renewal, in Chapter 535, General Provisions.

The proposed changes are made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change. Additionally, the proposed changes to §535.208(e)(1) correct references to applicable law.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amend-

ments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1102. No other statute, code or article is affected by the proposed amendments.

§535.208. *Application for a License.*

(a) Application.

(1) A person who intends to be licensed by the Commission must:

(A) file an application for the license using a [through the online] process acceptable to [approved by] the Commission [or on a form approved by the Commission for that purpose]; and

(B) submit the required fee under §535.210 of this chapter (relating to Fees).

(2) The Commission will reject an application submitted without a sufficient filing fee.

(3) The Commission may request additional information be provided to the Commission relating to an application.

(b) General Requirements for Licensure.

(1) To be eligible for any inspector license, an applicant must:

(A) meet the following requirements at the time of the application:

(i) be 18 years of age;

(ii) be a citizen of the United States or a lawfully admitted alien;

(B) comply with the fingerprinting, education, experience and examination requirements of the Act, Chapter 1102, and the rules of the Commission;

(C) meet the honesty, trustworthiness, and integrity requirements under the Act; and

(D) provide proof of financial responsibility as required by Chapter 1102.

(2) The fact that an individual has had disabilities of minority removed does not affect the requirement that an applicant be 18 years of age to be eligible for a license.

(c) License for military service members, veterans, or military spouses. Unless otherwise excepted under §535.58 of this chapter (relating to License for Military Service Members, Veterans, or Military Spouses), an applicant who is a military service member, veteran, or the spouse of a person who is on full-time military service in the armed forces of the United States or serving on active duty as a member of the armed forces of the United States must meet all requirements of this section.

(d) Terminated application. An application will be terminated and subject to no further evaluation or processing if the applicant fails to satisfy the requirements of subsection (b)(1) of this section within one year from the date the application is filed.

(e) Denial of application.

(1) An application for a license may be denied if the Commission determines that the applicant has failed to satisfy the Commission as to the applicant's honesty, trustworthiness and integrity or if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines). Notice of the denial and any hearing on the denial shall be as provided in §1102.115 [~~§401.364~~], Texas Occupations Code, and §533.3 [~~§535.34~~] of this title [~~chapter~~] (relating to Filing and Notice [Sales Agents Employed by an Owner of Land and Structures Erected by the Owner]).

(2) Procuring or attempting to procure a license by fraud, misrepresentation or deceit or by making a material misstatement of fact in an application is grounds to deny the application or suspend or revoke the license. It is a violation of this section for a sponsoring professional inspector knowingly to make a false statement to the Commission in an application for a license for an apprentice or a real estate inspector.

§535.215. *Inactive Inspector Status.*

(a) For the purposes of this section, an "inactive" inspector is a licensed professional inspector, real estate inspector, or apprentice inspector who is not authorized by law to engage in the business of performing real estate inspections as defined by Chapter 1102.

(b) The Commission may place an inspector on inactive status for any of the following reasons:

(1) the written request of the inspector to be placed on inactive status as provided for under subsection (c); or

(2) the inspector's failure to satisfy continuing education requirements. In addition, the inspector's license is inactive when the following occurs:

(A) termination of sponsorship by a professional inspector;

(B) the death of the inspector's sponsoring professional inspector;

(C) the expiration, suspension, or revocation of the license of the inspector's sponsoring professional inspector;

(D) the failure of the license holder to provide to the Commission proof of financial responsibility as required by Chapter 1102 and on a form approved by the Commission for that purpose; or

(E) the expiration or non-renewal of the inspector's financial responsibility as required by Chapter 1102.

(c) To be placed on inactive status by request, an inspector must do the following:

(1) file a request for inactive status using a process acceptable to the Commission [or submit a letter containing the inspector's name, license number and current mailing address]; and

(2) if the inspector is a licensed professional inspector, confirm in writing that the inspector has, at least 30 days prior to filing the request for inactive status, given any real estate inspectors or apprentice real estate inspectors sponsored by the inspector written notice that the inspector will no longer be their sponsor.

(d) A professional inspector on inactive status may apply to the Commission for return to active status by:

(1) filing a request using a process acceptable to [online or on a form approved by] the Commission;

(2) providing the Commission with documentation that the inspector has satisfied all continuing education requirements under Chapter 1102 and this chapter; and

(3) submitting any required fee.

(e) An apprentice inspector or real estate inspector who has been placed on inactive status may return to status if:

(1) the inspector has completed all applicable continuing education requirements; and

(2) the inspector's sponsoring professional inspector has requested that the apprentice inspector or real estate inspector be returned to active status using a process acceptable to [on a form approved by] the Commission.

(f) If a professional inspector terminates the sponsorship of an apprentice inspector or real estate inspector, the license of the apprentice inspector or real estate inspector immediately becomes inactive.

(g) Inactive inspectors may not perform inspections. Performance of inspections while on inactive status is grounds for disciplinary action against the inactive license holder. A professional inspector who has been placed on inactive status may not return to practice or sponsor apprentices or inspectors until the professional inspector has met the requirements to be returned to active status under this section. It is a violation of this section and grounds for disciplinary action against a professional inspector for the professional inspector to permit an inactive apprentice inspector or an inactive real estate inspector to perform inspections in association with, or on behalf of, the professional inspector.

§535.216. *Renewal of License.*

(a) Renewal application.

(1) A license issued by the Commission under Chapter 1102 expires on the date shown on the face of the license issued to the license holder.

(2) If a license holder intends to renew an unexpired license, the license holder must, on or before the expiration date of the current license:

(A) file a renewal application using a [through the online] process acceptable to [on the Commission's website or on the applicable form approved by] the Commission;

(B) pay the appropriate fee as required by §535.210 of this subchapter (relating to Fees);

(C) comply with the fingerprinting requirements of Chapter 1102;

(D) satisfy the applicable continuing education requirements of Chapter 1102 and this subchapter; and

(E) provide proof of financial responsibility as required in Chapter 1102 on a form approved by the Commission.

(3) An apprentice inspector or a real estate inspector must be sponsored by a licensed professional inspector in order to renew a license on an active status.

(b) Renewal Notice.

(1) The Commission will send a renewal notice to each license holder at least 90 days before the license expiration date.

(2) If a license holder intends to renew a license, failure to receive a renewal notice does not relieve the license holder from responsibility of applying for renewal as required in this section.

(c) Request for information.

(1) The Commission may request a license holder to provide additional information to the Commission in connection with a renewal application.

(2) A license holder must provide the information requested by the Commission within 30 days after the date of the Commission's request.

(3) Failure to provide the information requested within the required time is grounds for disciplinary action under Chapter 1102.

(d) Renewal on inactive status.

(1) Licensed professional inspectors, real estate inspectors and apprentice inspectors may renew a license on inactive status.

(2) Inspectors are not required to complete continuing education courses as a condition of renewing a license on inactive status, but must satisfy continuing education requirements before returning to active status.

(e) Late Renewal.

(1) If a license has been expired for less than six months, a license holder may renew the license by:

(A) filing a renewal application using a [through the online] process acceptable to [on the Commission's website or on the applicable form approved by] the Commission; and

(B) paying the appropriate late renewal fee as required by §535.210 of this subchapter;

(2) Provided the license holder meets all the requirements of this subsection, the Commission will renew the license on an inactive status.

(3) Reactivation of a license on inactive status under this subsection is governed by §535.211 of this subchapter (relating to Professional Liability Insurance, or Any other Insurance that Provides Coverage for Violations of Subchapter G of Chapter 1102) and §535.215 of this subchapter (relating to Inactive Inspector Status).

(f) License Reinstatement.

(1) If a license has been expired for more than six months, a license holder may not renew the license.

(2) A license holder may reinstate an expired license if the license holder:

(A) has held a professional inspector or real estate inspector license during the 24 months preceding the date the reinstatement application is filed;

(B) submits evidence satisfactory to the commission of successful completion of the continuing education hours required for the renewal of that license; and

(C) satisfies the commission as to the applicant's honesty, trustworthiness, and integrity.

(3) Applicants for a real estate inspector license must submit evidence of sponsorship by a professional inspector.

(4) An applicant for reinstatement is not required to take an examination.

(g) Denial of Renewal or Reinstatement. The Commission may deny an application for license renewal or reinstatement if a license holder is in violation of the terms of a Commission order.

(h) Renewal of license for military service member. A license holder on active duty in the United States armed forces is entitled to two years of additional time to renew an expired license without being subject to any increase in fee, any education or experience requirements or examination if the license holder:

(1) provides a copy of official orders or other official documentation acceptable to the Commission showing that the license holder was on active duty during the license holder's last renewal period; and

(2) pays the renewal application fee in effect when the previous license expired.

§535.218. *Continuing Education Required for Renewal.*

(a) Continuing education required for renewal.

(1) Before renewal of an inspector license, a license holder must take 32 hours of continuing education which shall include the following:

(A) 24 hours in the following subjects:

- (i) Foundations;
- (ii) Framing;
- (iii) Building Enclosures;
- (iv) Roof Systems;
- (v) Plumbing Systems;
- (vi) Electrical Systems;
- (vii) HVAC Systems;
- (viii) Appliances;
- (ix) Texas Standard Report Form Writing;

(x) Other approved courses related real estate inspections; and

(B) eight hours of non-elective coursework in legal, ethics, SOPs, and report writing.

(2) An inspector who files an application for reinstatement of an expired license within two years of the expiration date of the previous license must provide evidence satisfactory to the Commission that the applicant has completed any continuing education that would have been otherwise required for timely renewal of the previous license had that license not expired.

(3) An inspector is not eligible to receive more than 16 hours continuing education credit for any one single subject described in subsection (a)(1) of this section.

(b) Receiving continuing education credit for ride-along inspection course.

(1) Up to eight hours of continuing education credit per two year license period may be given to a license holder for completion of a ride-along inspection course.

(2) At a minimum, a ride-along inspection course must:

(A) consist of one full residential property inspection; and

(B) review applicable standards of practice and departure provisions contained in §§535.227 - 535.233 of this subchapter.

(3) In order to qualify for real estate inspector continuing education credit, a ride-along inspection course shall consist of no more than two students per session.

(4) The instructor of a ride-along inspection course may:

(A) review report writing; and

(B) deliver a notice regarding the ride-along session on a form approved by the Commission to the prospective buyer or seller of the home being inspected.

(c) Continuing education credit for students.

(1) The Commission may not grant continuing education credit twice for a course with the same course content taken by a license holder within a two year period.

(2) Unless a real estate inspection continuing education course is offered by alternative delivery methods, completion of a final examination is not required for a license holder to receive continuing education credit for a course.

(3) The Commission will not grant partial credit to an inspector who attends a portion of a course.

(d) Continuing education credit for course taken outside of Texas. An inspector may receive continuing education elective credit for a course taken to satisfy the continuing education requirements of a country, territory, or state other than Texas if:

(1) the inspector licensed in Texas held an active inspector license in a country, territory, or state other than Texas at the time the course was taken;

(2) the course was approved for continuing education credit for an inspector license by a country, territory, or state other than Texas at the time the course was taken;

(3) the successful completion of the course has been evidenced by a course completion certificate, a letter from the provider or such other proof satisfactory to the Commission;

(4) the subject matter of the course was predominately devoted to a subject acceptable for continuing education credit for an inspector licensed in Texas; and

(5) the inspector licensed in Texas has filed a Continuing Education (CE) Credit Request for an Out of State Course, with the Commission.

(e) Continuing education credit for instructors.

(1) Providers may request continuing education credit be given to instructors of real estate inspection courses subject to the following guidelines:

(A) instructors may receive credit for only those portions of the course which they teach; and

(B) instructors may receive full course credit by attending all of the remainder of the course.

(2) An instructor may receive continuing education credit for a ride-along inspection course conducted by the instructor if:

(A) the course is completed during the term of the instructor's current license period; and

(B) the instructor provides the Commission a certification of course completion no later than the expiration date of that license period using a process acceptable to[, on a form approved by] the Commission.

(3) Instructors of ride-along inspection course sessions may only receive up to 8 hours of continuing education credit for teaching the course per license period.

(f) Continuing education credit for attendance at a meeting of the Texas Real Estate Inspector Committee. An inspector licensed in Texas may receive up to four hours of continuing education elective credit per license period for attendance in person at any meeting of the full Texas Real Estate Inspector Committee, provided that the inspector attend the entire meeting. Partial credit will not be awarded.

(g) Continuing education credit for courses taken by persons who hold another occupational license issued by a governmental body in Texas. An inspector licensed in Texas may receive continuing education credit for a course taken to satisfy the continuing education requirements for another occupational license if:

(1) the inspector files the applicable form using a process acceptable to [with] the Commission;

(2) the inspector holds one of the following occupational licenses, including but not limited to:

- (A) plumber;
- (B) electrician;
- (C) architect;
- (D) professional engineer;
- (E) air conditioner and refrigeration technician; or
- (F) structural pest control applicator or technician;

(3) at the time the course was taken:

(A) the inspector held an active occupational license issued by a governmental body in Texas; and

(B) the course was approved for continuing education credit for the other occupational license;

(4) the inspector demonstrates successful completion of the course by submitting:

(A) a course completion certificate;

(B) a letter from the provider; or

(C) other proof satisfactory to the Commission; and

(5) the primary subject matter of the course was a subject acceptable for continuing education credit for an inspector licensed in Texas.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Abby Lee

General Counsel

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SUBCHAPTER T. EASEMENT OR RIGHT-OF-WAY AGENTS

22 TAC §§535.400, 535.403, 535.404

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.400, Registration of Easement or Right-of-Way Agents; §535.403, Renewal of Registration; and §535.404, Fees, in Chapter 535, General Provisions.

The proposed amendments are made as a result of the agency's license management system project. Because of this project, users will be able to provide information and make payment to the agency through an online process, rather than by submitting a paper form or check. As a result, the rule language is clarified to reflect this change. This includes removing language from 535.403(f) that is no longer necessary in light of the online application process. New language is added §535.404(3) to provide notice that when submitting online payment, the Commission may collect a subscription or convenience fee required by the Texas Department of Information Resources.

Finally, a clarifying change is made to the time period referenced in §535.403 to simplify and make consistent the calculation of the time period.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this proposal is Texas Occupations Code, Chapters 1101. No other statute, code or article is affected by the proposed amendments.

§535.400. Registration of Easement or Right-of-Way Agents.

(a) Application.

(1) A person who intends to be registered by the Commission as an easement or right-of-way agent must:

(A) file an application for the registration using a [through the online] process acceptable to [approved by] the Commission [or on the form prescribed by the Commission for that purpose]; and

(B) submit the required fee under §535.404 of this subchapter (relating to Fees).

(2) The Commission will reject an application submitted without a sufficient filing fee.

(3) The Commission may request additional information be provided to the Commission relating to an application.

(b) To be eligible for registration, an applicant must:

(1) meet the following requirements at the time of the application:

(A) be 18 years of age;

(B) be a citizen of the United States or a lawfully admitted alien;

(2) comply with the fingerprinting and education requirements of the Act;

(3) meet the honesty, trustworthiness, and integrity requirements under the Act; and

(4) if the applicant is a business entity, designate one of its managing officers who is registered under this title as agent for the business entity.

(c) Texas residents who enter military service and resume their Texas residence immediately upon separation from the military are not considered to have lost their Texas residence unless they have affirmatively established legal residence elsewhere.

(d) The fact that an individual has had disabilities of minority removed does not affect the requirement that an applicant be 18 years of age to be eligible for a license.

(e) The Commission will assign a registration number to each certificate holder and provide each certificate holder with a certificate of registration. Each registration issued by the Commission is valid until the last day of the month two years after the date the registration was issued.

(f) Termination of application. An application is terminated and is subject to no further evaluation or processing if the applicant fails to satisfy the requirements of subsection (b) of this section within one year from the date the application is filed.

(g) The Commission may disapprove an application for registration with written notice to the applicant if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines) or the applicant has engaged in conduct prohibited by the Act. Provided a timely written request for a hearing is made by the applicant in accordance with the Act, an applicant whose application for registration has been disapproved is entitled to a hearing. The hearing on the application will be conducted in accordance with §1101.364 of the Act and Chapter 533 of this title (relating to Practice and Procedure).

(h) If the Commission determines that issuance of a probationary certificate is appropriate, the order entered by the Commission with regard to the application must set forth the terms and conditions for the probationary certificate. Terms for a probationary certificate may include any of the following:

(1) that the probationary certificate holder comply with the Act and with the rules of the Commission;

(2) that the probationary certificate holder fully cooperate with the Commission in the investigation of any complaint filed against the certificate holder;

(3) that the probationary certificate holder attend a prescribed number of classroom hours in specific areas of study during the probationary period;

(4) that the probationary certificate holder limit acts as an easement or right-of-way agent as prescribed in the order;

(5) that the probationary certificate holder report regularly to the Commission on any matter which is the basis of the probationary certificate;

(6) that the probationary certificate holder comply with any other terms contained in the order which have been found to be reasonable and appropriate by the Commission after consideration of the circumstances involved in the particular application; or

(7) that the probationary certificate holder comply with any other terms contained in an order from any other court or administrative agency under which the probationary certificate holder is bound.

(i) Unless the order granting a probationary certificate specifies otherwise, a probationary certificate holder may renew the certifi-

cate after the probationary period by satisfying the requirements under §535.403 of this subchapter (relating to Renewal of Registration).

(j) Each certificate holder shall display the certificate of registration issued by the Commission in a prominent location in the certificate holder's place of business, as required by §1101.507 of the Act. If the certificate holder maintains more than one place of business, the certificate holder shall display either the certificate or a copy of the certificate in each place of business.

(k) Each certificate holder shall provide a mailing address, phone number, and email address used in business, if available, to the Commission and shall report all subsequent changes not later than the 10th day after the date of a change of any of the listed contact information. If a certificate holder fails to update the contact information, the last known contact information provided to the Commission is the certificate holder's contact information.

§535.403. *Renewal of Registration.*

(a) Renewal application.

(1) A registration expires on the date shown on the face of the registration issued to the certificate holder.

(2) If a certificate holder intends to renew an unexpired registration, the certificate holder must, on or before the expiration date of the current registration:

(A) file a renewal application using a ~~[through the online] process acceptable to [on the Commission's website or on the applicable form approved by] the Commission;~~

(B) submit the appropriate fee required by §535.404 of this subchapter (relating to Fees); and

(C) comply with the fingerprinting and education requirements under the Act.

(b) Failure to provide information requested by the Commission in connection with a renewal application is grounds for disciplinary action under §1101.653 of the Act.

(c) A registrant who fails to timely renew must apply for and receive a new registration in order to act as an easement or right-of-way agent.

(d) The Commission will deliver a registration renewal notice to a certificate holder 90 days ~~[three months]~~ before the expiration of the certificate holder's current registration. Failure to receive the certificate renewal notice does not relieve a certificate holder of the obligation to renew a certificate.

(e) The Commission is not required to notify a business entity such as a corporation, limited liability company, or partnership that has failed to designate an officer, manager, or general partner who meets the requirements of §1101.502 of the Act. The Commission may not renew a registration issued to a business entity that has not designated an officer, manager, or general partner who meets the requirements of the Act.

(f) ~~[If the registration expires on a Saturday, Sunday or any other day on which the Commission is not open for business, a renewal application is considered to be timely filed when the application is received or postmarked no later than the first business day after the expiration date of the registration.]~~

~~[(g)]~~ Denial of Renewal. The Commission may deny an application for renewal of a registration if the certificate holder is in violation of the terms of a Commission order.

§535.404. *Fees.*

The Commission shall charge and collect the following fees:

(1) a fee of \$200 for the application or renewal of a registration for a two-year period; ~~[and]~~

(2) a fee of \$50 for deposit into the Real Estate Recovery Trust Account upon the filing of an original or renewal application for a certificate of registration; ~~and[-]~~

(3) the fee required by the Department of Information Resources as a subscription or convenience fee for use of an online payment system.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS

22 TAC §§537.63 - 537.65

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §537.63, Standard Contract Form TREC No. OP-L, Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law; §537.64, Standard Contract Form TREC No. OP-M, Non-Realty Items Addendum; and §537.65, Standard Contract Form TREC No. 57-0, Notice to Prospective Buyer, and the forms adopted by reference, in Chapter 537, Professional Agreements and Standard Contracts.

The proposed amendments to Chapter 537 and the forms adopted by reference are made as a result of the Commission's quadrennial rule review. The proposed changes update or correct form reference numbering.

Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contracts for the sale of real property. These forms are drafted and recommended for proposal by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and one public member appointed by the governor.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefits anticipated as a result of enforcing the sections as proposed will

be improved clarity and consistency for members of the public and license holders who use these contract forms.

For each year of the first five years the proposed amendment is in effect, the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendment is also adopted under Texas Occupations Code, §1101.155, which authorizes the Commission to adopt rules in the public's best interest that require license holders to use contract forms prepared by the Texas Real Estate Broker-Lawyer Committee and adopted by the Commission.

The statute affected by this amendment is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the amendment.

§537.63. *Standard Contract Form TREC No. 56-0 [OP-L], Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 56-0 [OP-L] approved by the Commission in 2011 for voluntary use to comply with federal regulation to furnish a lead paint disclosure in properties constructed prior to 1978.

§537.64. *Standard Contract Form TREC No. 57-0 [OP-M], Non-Realty Items Addendum.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 57.0 [OP-M] approved by the Commission in 2011 for voluntary use when the parties need to convey items of personal property not already listed in Paragraph 2, Property, of the contracts.

§537.65. *Standard Contract Form TREC No. 58-0 [57-0], Notice to Prospective Buyer.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 58.0 [57-0] approved by the Commission in 2022 for voluntary use when the parties use a contract of sale that has not been approved for mandatory use by the Commission.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 541. RULES RELATING TO THE PROVISIONS OF TEXAS OCCUPATIONS CODE, CHAPTER 53

22 TAC §541.2

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §541.2, Criminal History Evaluation Letters/Determination of Fitness.

The proposed amendment to §541.2 is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendment is in effect, the amendment will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendment is also proposed pursuant to Subchapter D, Chapter 53, Occupations Code.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendment.

§541.2. Criminal History Evaluation Letters /Determination of Fitness.

Pursuant to Texas Occupations Code, Chapter 53, Subchapter D and §1101.353, a person may request that the Texas Real Estate Commission (the Commission) evaluate the person's eligibility for a specific occupational license regulated by the Commission by:

- (1) submitting a request using a process acceptable to [on a form approved by] the Commission [for that purpose]; and
- (2) paying the required fee.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

TRD-202501580

Abby Lee

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 936-3057



CHAPTER 543. RULES RELATING TO THE PROVISIONS OF THE TEXAS TIMESHARE ACT

22 TAC §§543.2 - 543.6, 543.13

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §543.2, Registration; §543.3, Amendments; §543.4, Fees; §543.5, Forms; §543.6, Violations; and §543.13, Renewal of Registration in Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act.

The proposed amendments to Chapter 543 are made as a result of: (i) the Commission's quadrennial rule review; and (ii) the agency's license management system project.

A clarifying change is made to the time periods referenced in §543.2, 543.6, and §543.13 to simplify and make consistent the calculation of the relevant time period. A new subsection (g) is added to §543.4 to provide notice that when submitting online payment, the Commission may collect a subscription or conveyance fee required by the Texas Department of Information Resources.

nience fee required by the Texas Department of Information Resources.

Because of the license management system project, users will be able to provide more information and make payment to the agency utilizing an online process, rather than by submitting a paper form or check. As a result, the rule language is clarified to reflect this change. This includes the removal of references to most of the forms listed in §543.5 (the Consent to Service of Process form adopted by reference is updated with a new title to differentiate the form from other consent forms and contains terminology changes). The proposed changes to §543.6(f) also help align the language with agency process among other license types.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed new rules are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed new rules. There is no significant economic cost anticipated for persons who are required to comply with the proposed new rules. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed new rules are in effect the new rules and amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under the Texas Property Code, §221.024, which authorizes the Texas Real Estate Commission to prescribe and publish forms and adopt rules necessary to carry out the provisions of The Texas Timeshare Act.

The statute affected by this proposal is Chapter 221, Property Code. No other statute, code or article is affected by the proposed new rules.

§543.2. Registration.

(a) A developer who wishes to register a timeshare plan shall submit an application for registration using a process acceptable to [forms approved by] the Commission. The Commission may not accept for filing an application submitted without a completed application form and the appropriate filing fee.

(b) If the Commission determines that an application for registration of a timeshare plan satisfies all requirements for registration, the Commission shall promptly register the timeshare plan. The Commission shall notify the applicant in writing that the timeshare plan has been registered, specifying the anniversary date of the registration and shall assign a registration number to the timeshare plan.

(c) If the Commission determines that an application for registration of a timeshare plan fails to satisfy any requirement for registration, the Commission shall promptly notify the applicant of any deficiency in writing. The Commission may require an applicant to revise and resubmit written documents filed with the application or to provide additional information if the Commission determines that the application is incomplete or inaccurate. Upon submission by an applicant of a response sufficient in the opinion of the Commission to cure any deficiency in the application, the Commission shall promptly register the timeshare plan and provide the applicant with the written notice required by these rules. An application will be terminated and the Commission shall take no further action if the applicant fails to submit a response to the Commission within 90 days [three months] after the Commission makes [mails] a request to the applicant for curative action.

§543.3. Amendments.

(a) A person who wishes to amend the registration of a timeshare plan shall submit an application to amend the registration using a process acceptable to [forms approved by] the Commission. A developer may file an application to amend a registration before the occurrence of the change. The Commission may not accept for filing an application submitted without a completed application form and the appropriate filing fee.

(b) For the purposes of §221.023 and subsections (b)(26), (c)(9) and (d)(32) of §221.032 of the Texas Timeshare Act, a developer shall file amendments to the registration reporting to the Commission any material or materially adverse change in any document contained in a registration.

(c) "Material" includes, but is not limited to:

- (1) a change of developer;
- (2) a change of exchange company or association with an additional exchange company;
- (3) an increase in assessments of 15% or more;
- (4) any substantial change in the accommodations that are part of the timeshare plan;
- (5) an increase or decrease in the number of timeshare interests in the timeshare plan registered by the Commission;
- (6) a change of escrow agent or type of escrow or other financial assurance;
- (7) if applicable, an increase of more than 20% in an original alternative assurance as defined by §221.063(a) of the Texas Timeshare Act;
- (8) a change to a substantive provision of the escrow agreement between the escrow agent and the developer;
- (9) a change of management company; or

(10) a change to a substantive provision of the management agreement.

(d) "Materially adverse" means any material change to the timeshare plan that substantially reduces the benefits or increases the costs to purchasers.

(e) Material or materially adverse does not include the correction of any typographical or other nonsubstantive changes.

(f) If the Commission determines that a registration, if amended in the manner indicated in an application to amend a registration, would continue to satisfy all requirements for registration, the Commission shall promptly notify the applicant in writing that the registration has been amended, specifying the effective date of the amendment.

(g) If the Commission determines that a registration, if amended in the manner indicated in an application to amend a registration, would fail to satisfy a requirement for registration, the Commission shall promptly notify the applicant of any deficiency. The Commission may require the applicant to revise and resubmit written documents filed with the application or to provide additional information if the Commission determines that the application or written material filed with the application is incomplete or inaccurate. Upon submission by an applicant of a response sufficient in the opinion of the Commission to cure any deficiency in the application, the Commission shall promptly notify the applicant that the registration has been amended, specifying the effective date of the amendment.

§543.4. Fees.

(a) An applicant for registration of a timeshare plan or an applicant for abbreviated registration of a timeshare plan shall pay a filing fee of \$2.00 for each seven days of annual use availability in each accommodation that is a part of the timeshare plan, provided however, that the Commission shall charge and collect a minimum filing fee of \$500.00 and that no registration filing fee shall exceed \$3,500.00.

(b) An applicant for amendment of the registration of a timeshare plan shall pay a minimum filing fee of \$100.00, provided however, that the filing fee for an amendment that increases the number of timeshare interests to be sold from the number that existed or were proposed for sale in the original registration shall be \$2.00 for each seven days of annual use availability in each timeshare unit that is being added to the timeshare plan and that no filing fee shall exceed \$2,000.00.

(c) An applicant for pre-sale authorization shall pay a filing fee of \$100.00 in addition to the filing fee due under subsection (a) of this section.

(d) A filing fee is not refundable once an application is accepted for filing by the Commission.

(e) A developer of a registered timeshare plan shall pay a fee of \$100 to renew a registration.

(f) To reinstate an expired registration of the timeshare plan, a developer shall pay, in addition to the fee of \$100 to renew a timeshare plan, an additional fee of \$25 for each month the registration has been expired.

(g) The Commission may collect the fee required by the Department of Information Resources as a subscription or convenience fee for use of an online payment system.

§543.5. Forms.

[~~(a)~~] The Commission adopts by reference the following forms to be used in connection with [the registration, amendment, or renewal of] a timeshare plan application:

~~[(1) Application to Register a Timeshare Plan, Form TSR 1-6;]~~

~~[(2) Application to Amend a Timeshare Registration, Form TSR 2-6;]~~

~~[(3) Application for Abbreviated Registration of a Timeshare Plan, Form TSR 3-4;]~~

~~[(4) Application for Pre-sale Authorization, Form TSR 4-0;]~~

~~(1) [(5)]Escrow Surety Bond, Form TSR 5-1;~~

~~(2) [(6)] Construction Surety Bond, Form TSR 6-1; and~~

~~(3) [(7)] Timeshare Consent to Service of Process, Form TSR 7-1. ~~[TSR 7-0; and]~~~~

~~[(8) Application to Renew the Registration of a Timeshare Plan, Form TSR 8-2].~~

~~[(b) Forms approved or promulgated by the Commission must be submitted on copies obtained from the Commission, whether in printed format or electronically completed from the forms available on the Commission's website.]~~

~~[(c) Forms adopted by reference in this section are published by and available from the Texas Real Estate Commission at P.O. Box 12188, Austin, Texas 78711-2188, or www.trec.texas.gov.]~~

§543.6. Violations.

(a) It is a material violation of the Texas Timeshare Act for a person to engage in any of the acts described in §221.071(a) of the Texas Timeshare Act.

(b) It is a material violation of the Texas Timeshare Act for a developer to represent to a potential purchaser of a timeshare interest by advertising or any other means that a timeshare plan has been approved by the State of Texas or the Commission or to represent that the State of Texas or the Commission has passed upon the merits of a timeshare plan. It is not a material violation of the Texas Timeshare Act for a registrant to represent that a timeshare plan has been registered if the registrant discloses at the same time and in the same manner that the State of Texas and the Commission have not approved the timeshare plan or passed upon the merits of the timeshare plan.

(c) It is a material violation of the Texas Timeshare Act for a developer to fail to file an application to amend a registration within 30 days ~~[one month]~~ of the occurrence of a material or materially adverse change in any document contained in the registration or to fail to submit a response together with any related material in a good faith effort to cure a deficient application to amend a registration within 90 days ~~[three months]~~ after the Commission has mailed to the applicant a request for curative action.

(d) It is a material violation of the Texas Timeshare Act for a person to procure or attempt to procure a registration or amendment to a registration by fraud, misrepresentation, or deceit or by making a material misstatement of fact in an application filed with the Commission.

(e) It is a material violation of the Texas Timeshare Act for a person to disregard or violate a rule of the Commission.

(f) It is a material violation of the Texas Timeshare Act for a developer to fail to make good a payment ~~[check]~~ issued to the Commission ~~[one month]~~ after the Commission has sent ~~[mailed a request for payment]~~ by certified mail a request for payment to the developer's last known mailing address according to ~~[as reflected by]~~ the Commission's records.

(g) It is a material violation of the Texas Timeshare Act for a developer to fail, not later than the 14th day after the date of a request, to provide information or documents requested by the Commission or a Commission representative in the course of the investigation of a complaint.

(h) It is a material violation of the Texas Timeshare Act for a developer to fail to properly file an assumed name as required by §221.037(b) of the Texas Timeshare Act or to fail to give the Commission timely written notice of the developer's use of an assumed name.

§543.13. Renewal of Registration.

(a) The registration of a timeshare plan expires on the last day of the month two years after the date the plan was registered.

(b) A developer of a timeshare plan may renew the registration for a two-year period by submitting an application using a process acceptable to the Commission ~~[completing an Application to Renew the Registration of a Timeshare Plan, Form TSR 8-2,]~~ and paying the appropriate filing fee.

(c) The Commission will deliver a renewal notice to a developer 90 days before the expiration of the registration of the timeshare plan ~~[Three months before the expiration of a registration, the Commission shall mail a renewal application form to the developer's last known mailing address as shown in the Commission's records].~~

(d) An application to renew a timeshare plan is considered void and is subject to no further evaluation or processing when the developer fails to provide information or documentation within 60 days ~~[two months]~~ after the Commission makes written request for correct or additional information or documentation.

(e) Denial of Renewal. The Commission may deny an application for renewal of a registration if the developer of a timeshare plan is in violation of the terms of a Commission order.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 8, 2025.

TRD-202501581

Abby Lee

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 936-3057



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 448. STANDARD OF CARE SUBCHAPTER A. DEFINITIONS

25 TAC §448.101

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Chapter 448 consisting of §448.101, concerning Definitions.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove an obsolete rule. Section 448.101 was adopted in 2004 to adopt by reference definitions originally located in Title 40, Chapter 141 that have since been repealed.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rule repeal will be in effect, enforcing or administering the rule repeal does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule repeal will be in effect:

- (1) the proposed repeal will not create or eliminate a government program;
- (2) implementation of the proposed repeal will not affect the number of HHSC employee positions;
- (3) implementation of the proposed repeal will result in no assumed change in future legislative appropriations;
- (4) the proposed repeal will not affect fees paid to HHSC;
- (5) the proposed repeal will not create a new regulation;
- (6) the proposed repeal will not expand, limit, or repeal an existing regulation;
- (7) the proposed repeal will not change the number of individuals subject to the rule; and
- (8) the proposed repeal will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule will be removed and does not require any change in business processes or additional costs.

LOCAL EMPLOYMENT IMPACT

The proposed repeal will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to the repeal because the repeal does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Libby Elliott, Deputy Executive Commissioner for the Office of Policy and Rules, has determined that for each year of the first five years the repeal is in effect, the public benefit will be removal of an unnecessary rule from the Texas Administrative Code.

Trey Wood has also determined that for the first five years the repeal is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed repeal because the rule will be removed.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R056" in the subject line.

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which requires the Executive Commissioner of HHSC to adopt rules for the operation and provision of services by the health and human services agencies.

The repeal implements Texas Government Code §524.0151.

§448.101. Definitions.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 6, 2025.

TRD-202501532

Karen Ray

Chief Counsel

Department of State Health Services

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 221-9021

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 9. TEXAS COMMISSION ON JAIL STANDARDS

CHAPTER 263. LIFE SAFETY RULES

SUBCHAPTER A. GENERAL

37 TAC §263.1

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.1, concerning life safety in county jails. The proposed rule adds language to 37 TAC §263.1, that clarifies the requirement to, and ensures that, county jails comply with standards as adopted by the Texas Department of Insurance. This language is proposed following feedback from the State Fire Marshal's Office during TCJS' four-year rule review, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule will be enhanced clarity in interpreting and enforcing this rule in county jails. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.1. *General Purpose.*

All facilities shall be designed, constructed, maintained, staffed, and operated to:

- (1) provide for proper compartmentation;
- (2) provide for the prompt detection, alarm, and extinguishing of fires and the avoidance of any explosion;
- (3) provide for a mechanical smoke management system and other emergency equipment;
- (4) provide (and file with the Commission) plans, programs, drills, and training for emergencies, as required under §263.40 and §263.41 of this title (relating to Plans and Drills for Emergencies).
- (5) comply with standards as adopted by The Texas Department of Insurance under Government Code 417.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

TRD-202501603

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 850-9668



SUBCHAPTER B. DESIGN AND MATERIALS

37 TAC §263.12

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.12, concerning life safety in county jails. The proposed rule adds language to 37 TAC §263.12, which updates the references to the National Fire Protection Association's standards and adds language as suggested by the State Fire Marshal's Office. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is enhanced compliance to national standards of fire protection. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.12. *Additions/New Construction.*

New facilities, new additions, and major renovations to existing facilities shall:

- (1) be constructed of fire resistive, noncombustible materials. Single story, minimum security facilities may use wood framing when provided as part of an Underwriters Laboratory fire rated assembly, appropriate for the application, provided exterior walls, interior walls, and ceilings are of fire resistive materials. Roof materials shall meet Class C criterion unless superseded by local code requirements;
- (2) have dividing fire and smoke partitions between floors, between compartments, and in corridors with self-closing fire doors or normally closed power operated swinging or sliding detention doors;
- (3) have Class A interior finish materials on all interior surfaces (flame spread 0-25, smoke developed 0-450 in accordance with ASTM E84 "Standard Test Method for Surface Burning Characteristics of Building Materials" and UL 723 standards [NFPA 255, "Method of Test of Surface Burning Characteristics of Building Materials"]);
- (4) be designed for isolation of fires, riots, or other emergencies;
- (5) provide means of egress components consisting of doors, stairs, and smoke proof enclosures (in multistory facilities),

horizontal exits, and passageways in accordance with NFPA 101 Life Safety Code §14.2 concerning Means of Egress Components as appropriate for the occupancy type such as Business or Detention.[;]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

TRD-202501604

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 850-9668



37 TAC §263.15

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.15, concerning the illumination of exits in county jails. The proposed rule adds language to 37 TAC §263.15, that updates the requirements for illumination of discharge stairways to conform with the State Fire Marshal's Office recommended comments received during TCJS' four-year rule review. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule will be enhanced life safety of inmates, corrections staff, and visitors in county jails. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.15. *Illumination of Exits.*

All corridors and passages to exits, the exits themselves, [discharging stairways,] and other means of egress shall be continuously illuminated at all points with not less than 1.0 foot candle measured at the floor,

and shall be so arranged that the failure of any lighting unit or bulb will not leave any area in darkness. Discharging stairways shall be continuously illuminated at all points with not less than 10 foot candle measured at the floor, and shall be so arranged that the failure of any lighting unit or bulb will not leave any area in darkness.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

TRD-202501605

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 850-9668



37 TAC §263.19

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.19, concerning life safety in county jails. The proposed rule adds language to 37 TAC §263.19, correcting grammatical errors and clarifying a reference with the full title. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is enhanced compliance to national standards of fire protection. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.19. *Hazardous Area Protection.*

(a) Areas used for general storage, boiler or furnace rooms, fuel storage, storage for chemicals or cleaning supplies, maintenance shops including woodworking and painting areas, laundries, and

kitchens, shall be separated from other parts of the building with ~~two-hour~~ [two hour] fire resistive construction with openings protected with automatic or self-closing one-half hour fire rated assemblies. When the hazardous area is protected by automatic sprinkler protection, the separation may be of one hour fire resistive construction with openings protected with automatic or self-closing 20-minute [self closing 20 minute] fire rated assemblies.

(b) Cooking facilities producing grease laden vapors shall have an approved automatic fire extinguishing system [systems] protecting cooking surfaces and hood and duct systems serving the cooking equipment in accordance with NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations.

(c) Where hazardous processes or storage areas are of such a character as to introduce an explosion potential, explosion venting or an explosion suppression system specifically designed for the hazard shall be provided. The use of combustible supplies and permitting of hazardous material and trash to collect shall be minimized and avoided where possible.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

TRD-202501606

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 850-9668



SUBCHAPTER C. DETECTION AND ALARM SYSTEMS

37 TAC §263.30

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.30, concerning life safety in county jails. The proposed rule adds language to 37 TAC §263.30, which clarifies references and conforms to recommended language as provided by the State Fire Marshal's Office during TCJS' four-year rule review. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule will be enhanced sanitation in county jail holding cells. There will not be an effect on small businesses, microbusinesses, rural com-

munities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.30. General.

An automatic fire detection and alarm system shall be provided for all facilities. The system shall include:

(1) automatic fire detection for all areas of the facility;

(2) manual fire alarm pull station for staff use;

(3) audio and visual devices shall be installed [visual and audible announcement of all fire detection devices and fire extinguishing systems] at continuously staffed locations.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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37 TAC §263.32

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.32, concerning periodic testing of fire alarm systems in county jails. The proposed rule adds language to 37 TAC §263.32, which specifies how fire alarm systems shall be tested. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is enhanced clarity in interpreting and enforcing this rule. There will

not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.32. Periodic Testing.

The fire alarm system shall ~~systems should~~ be tested in accordance with the inspection, testing, and maintenance schedules in NFPA 72, National Fire Alarm and Signaling Code ~~[the manufacturer's recommendation,] and [but]~~ shall be tested at least on calendar quarterly intervals.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

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For further information, please call: (512) 850-9668



37 TAC §263.33

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.33, concerning fire alarm system notification of others in county jails. The proposed rule adds language to 37 TAC §263.33, which adds a reference to the National Fire Protection Association regarding how fire alarm systems shall be supervised. This language is proposed following comments from the State Fire Marshal's Office, which were evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is enhanced compliance to national standards of fire protection. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no

anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.33. Notification of Others.

The fire alarm system shall be supervised in accordance with NFPA 72, National Fire Alarm and Signaling Code, to facilitate the notification of ~~[should provide announcement at]~~ the local fire department.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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For further information, please call: (512) 850-9668



SUBCHAPTER E. LIFE SAFETY AND EMERGENCY EQUIPMENT

37 TAC §263.50

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.50, concerning emergency electrical power in county jails. The proposed rule adds language to 37 TAC §263.50, which corrects grammatical mistakes in this rule. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is increased clarity in interpretation and enforcement of this rule. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is

no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.50. *Emergency Electrical Power.*

(a) New facilities, new additions, and major renovations to existing facilities shall be equipped with an emergency back-up electrical generator designed to operate both manually and automatically upon interruption of the primary electrical power source. The system shall be capable of operating uninterrupted for a minimum period of ~~one and one-half [one and one half]~~ one and one-half hours without refueling. Back-up electrical power shall be provided for necessary equipment and life safety systems including, but not limited to:

- (1) emergency illumination systems;
- (2) exit signs [~~lights~~];
- (3) smoke management systems;
- (4) fire detection and alarm systems;
- (5) audible communication systems;
- (6) security/control systems;
- (7) normal ventilation systems required for smoke detection.

(b) Existing facilities shall provide emergency illumination, and this may be accomplished by utilizing a battery back-up system capable of continuous operation for one and one-half hours.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Brandon Wood

Executive Director

Texas Commission on Jail Standards

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For further information, please call: (512) 850-9668



37 TAC §263.51

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.51, concerning smoke management in county jails. The proposed rule adds language to 37 TAC §263.51, which will clarify the rule, and adds references to the National Fire Protection Association with titles. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is increased clarity in interpreting and enforcing this rule. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.51. *Smoke Management.*

(a) General. Jails shall have a sufficient means of managing smoke from a fire to permit orderly movement of inmates from the area of a fire incident. Smoke management shall limit the exposure of staff to untenable conditions when responding to a fire emergency. The means of smoke management shall be a combination of compartmentation, control of smoke migration from the affected area, and means of removing smoke to the exterior of the building. The smoke management system shall include the consideration of:

- (1) automatic and manual fire detection;
- (2) automatic and manual fire alarm system;
- (3) automatic and manual smoke control system activation;
- (4) automatic and manual fire suppression system;
- (5) maintenance of reliable [~~safe~~] means of egress;
- (6) movement of inmates from affected area to an area of refuge [~~safety~~];
- (7) containment of smoke to area [~~space~~] of fire origin;
- (8) automatic and manual removal of smoke.

(b) Coverage.

(1) Smoke management shall be provided throughout all detention and support areas within the security perimeter.

(2) Mechanical smoke control systems and smoke removal systems shall be provided for all inmate housing areas, including cells, day rooms, dormitories, and special purpose cells.

(3) For the purpose of smoke control and smoke removal systems, the affected area shall be deemed to be the compartment consisting of a cell, day room, dormitory, or special purpose cell, in which the fire incident originates. Where open grating or mesh walls are used,

the affected area shall be restricted to the cell(s) and the adjacent day room.

(c) **Compartmentation.** Smoke barriers shall be provided in accordance with ~~NFPA 101 Chapter 22.3.7 and Chapter 23.3.7 [the Life Safety Code, NFPA 101 14.3]~~ concerning Subdivision of Building Spaces.

(d) **Control of Smoke Migration.**

(1) The ~~smoke~~ ~~[fire]~~ detection system shall promptly detect smoke within the affected area.

(2) Upon detection, ~~a fire~~ ~~[an]~~ alarm system shall automatically alert the control station(s) and initiate the automatic smoke control system.

(3) The smoke control system shall automatically, by pressure differential and/or air flow, contain smoke in the area of fire origin.

(4) Smoke control systems shall be designed so that smoke is restricted from entering the means of egress during the evacuation of inmates by providing sufficient air flow through exit access doors, when open.

(5) A manual override capability shall be provided in the event of detection failure and for testing purposes.

(e) **Smoke Removal.**

(1) All jails shall be provided with smoke removal capability, except as provided under subsection (g) of this section, relating to exceptions.

(2) The smoke removal system shall have the ability to remove smoke from the affected area to the exterior of the building using fixed mechanical equipment. Existing facilities (in operation prior to December 23, 1976) may be exempt from using fixed equipment when portable equipment is provided.

(3) During smoke removal, smoke shall not migrate from the affected area to other areas of the building.

(4) Smoke removal systems shall be designed to develop air flow patterns within the affected area which contribute to the dilution and removal of smoke. Air devices for supply and exhaust shall be separated by a distance of not less than 75% of the horizontal dimensions of the compartment and so arranged to provide air flow coverage of at least 50% of the vertical dimension of the compartment. Alternate air device configurations which have demonstrated effectiveness by field testing or mock-up testing may be approved.

(5) Capacity of the smoke removal system shall be sufficient to comply with subsection (f) of this section relating to smoke testing. Facilities in operation or initiated prior to March 31, 1991, which are not provided with a complete smoke management system (as required by this section) shall provide smoke removal capability, being automatically activated by the smoke detection system when utilizing fixed equipment, meeting the smoke testing criteria established by the commission on September 27, 1989. Designs for smoke removal systems which provide air change rates of less than 15 air changes per hour shall not be utilized. Design consideration shall be given to system configuration, friction loss, pressure drops and differentials, air leakage, and other construction characteristics, which may necessitate safety factors being included in design calculations.

(6) A manual override capability shall be provided in the event of detection failure and for testing purposes.

(f) **Testing.**

(1) **General.** Testing of the smoke management systems in all facilities shall be in compliance with the requirements of this section.

(2) **Functional Testing.**

(A) **Air Balancing Certification.** Prior to any other testing of new smoke management systems, an air balance report prepared in accordance with nationally recognized practices shall be submitted to the county. Such report shall bear certification that the smoke control and removal systems meet the engineer of record's design requirements with respect to pressure differentials achieved and air flow rates necessary to meet the intended smoke management operation. A copy of the air balance report shall be maintained at the facility and made available to the commission's inspector during all tests and inspections. An air balance report on an existing system may be required by the Texas Commission on Jail Standards when there is evidence that the smoke management system has been impaired due to modifications to the system or inadequate maintenance.

(B) **System Operation.** A test of smoke management system's initiating devices and control systems' output shall be performed. Such testing shall verify that, upon activation of a smoke detector, water flow indicating device, manual fire alarm station, or other smoke management system initiating device, the smoke management system components will automatically commence operation. The engineer of record shall provide a "cause and effect" chart to indicate the appropriate smoke management operating mode for all affected equipment based on the operation of each initiating device. Acceptance of functional testing shall be predicated upon all input and output devices performing as indicated by the "cause and effect" chart.

(3) **Smoke Testing.**

(A) **General smoke testing** of the smoke management systems shall be accomplished in accordance with this section. The smoke management system shall be tested in both normal and emergency power modes.

(B) **Smoke Detection.** Artificial smoke shall be introduced into the space to be tested. The rate of introduction of smoke shall be two times the volume of the space to be tested. The commission may establish a minimum amount of smoke to be introduced into a space. The smoke detection system shall alarm and initiate the smoke control and removal system(s) within 60 seconds of the beginning of smoke introduction.

(C) **Smoke Migration.** The smoke management system shall be deemed to be controlling smoke migration if smoke from the detection test does not migrate from the affected area for a period of ten minutes from the time of detection and activation of the smoke control system. The inspector may conduct the smoke migration test with the compartment exit door open or closed.

(D) **Smoke Removal.** Utilizing the procedure for testing smoke detection, smoke removal shall be completed in the space to be tested within fifteen minutes from the time of system activation.

(4) **Maintenance and Retesting.** The smoke management systems shall be regularly maintained to assure consistent performance. The smoke management systems shall be operationally tested quarterly and may be tested by the commission's inspector on an annual basis utilizing the smoke testing procedures.

(g) **Exceptions.**

(1) Fully sprinklered, minimum security facilities may be exempt from these requirements if approved by the sheriff, the local fire marshal, and the commission; however, smoke detection and alarm systems shall be provided for all facilities. Approval shall be based on

review of each facility, the degree of overall protection achieved, and a high degree of freedom of movement afforded the inmates. Such facilities shall be inspected by local fire protection authorities monthly.

(2) Single story, new construction, minimum security facilities whose exit doors are incapable of being locked from the inside and which provide direct exiting to the exterior of the building from the inmate sleeping area(s) and day room(s) may be constructed without smoke control, smoke removal, or sprinkler systems. However, these facilities shall provide proper compartmentation and smoke detection.

(3) Facilities that were in operation or initiated prior to March 31, 1991, and which comply with subsection (c) of this section, relating to Smoke Removal, may be exempt from other requirements of this section relating to smoke management.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

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Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 850-9668



37 TAC §263.52

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule §263.52, concerning standpipes and hoses in county jails. The proposed rule adds language to 37 TAC §263.52, which adds titles for references to National Fire Protection Association chapters, and corrects grammatical errors. This language is proposed following feedback from the State Fire Marshal's Office, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule is increased clarity in interpretation and enforcement of this rule. There will not be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas 78711-2985, or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§263.52. Standpipes and Hoses.

Each facility shall be furnished with an approved wet NFPA 14, Standard for the Installation of Standpipe and Hose Systems, Class III standpipe and hose system (located to permit quick deployment to all inmate occupied areas) for use by fire department personnel and staff. Partial or complete automatic fire sprinkler systems with appropriate sprinkler heads may be provided. Facilities equipped with complete automatic fire sprinkler systems, in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems, may reduce the system to an NFPA 14, Standard for the Installation of Standpipe and Hose Systems, Class I system. A one-inch ~~[one inch]~~ non collapsible ~~[noncollapsible]~~ hose and reel system may be used in lieu of the one and one-half inch collapsible hose when approved by local fire officials. Existing facilities may request a variance from this requirement.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 12, 2025.

TRD-202501612

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: June 22, 2025

For further information, please call: (512) 850-9668



CHAPTER 279. SANITATION

37 TAC §279.1

The Texas Commission on Jail Standards (TCJS) proposes an amendment to rule 279.1, concerning sanitation plans for county jails. The proposed rule adds language to 37 TAC §279.1 that requires a county jail to include a method to allow handwashing prior to meals being served in holding cells. This language is proposed following a public petition for the addition of this language, which was evaluated by the TCJS Administrative Rules Advisory Committee (ARAC). The TCJS ARAC recommended publication of this amendment, for public comment, to the Commission.

Brandon Wood, Executive Director, has determined that there will be no fiscal implications for state or local government as a result of enforcing this rule for the first five-year period.

Brandon Wood, Executive Director, has determined, for each year of the first five-year period the rule is in effect, that the rule will have no impact on government programs, employee positions, legislative appropriations to the agency, fees paid to the agency, the number of individuals subject to the rules, the state's economy.

Brandon Wood, Executive Director, has determined that for each year of the first five-years the rule is in effect, the public benefit anticipated as a result of enforcing this amended rule will be enhanced sanitation in county jail holding cells. There will not

be an effect on small businesses, microbusinesses, rural communities, and/or individuals. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

Comments on the proposal may be submitted in writing to Richard Morgan, Research Specialist, at P.O. Box 12985, Austin, Texas, 78711-2985 or by email at richard.morgan@tcjs.state.tx.us.

This amended rule is proposed under the authority of Government Code, Chapter 511, which authorizes the TCJS to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This rule change does not affect other rules or statutes.

§279.1. *Sanitation Plan.*

Each facility shall have and implement a written plan, reviewed and approved by the commission, for the maintenance of an acceptable level of cleanliness and sanitation throughout the facility. Such plan shall provide for:

- (1) a regular daily schedule for the work and inspections necessary to keep the facility clean; which schedule shall be assigned and supervised by jailers who have the responsibility for keeping the facility clean and making regular sanitation inspections;
- (2) water and sewage systems not part of a public system and food preparation areas shall be inspected at least annually by health authorities and record kept for each inspection;
- (3) adequate and safe cleaning equipment;
- (4) water tight garbage containers with tight fitting covers in the kitchen;
- (5) the maintenance of toilets, lavatories, showers, and other equipment throughout the facility in good working order;
- (6) the maintenance of all counters, shelves, tables, equipment, and utensils with which food or drink comes into contact in a clean condition and in good repair;
- (7) clean washing aids, such as brushes, dishcloths, and other hand aids used in dish washing operations and for no other purposes;
- (8) a well ventilated place for storing and drying mops and other cleaning tools;
- (9) the continuous compliance of the water system and sewage system with the minimum requirements for such public systems;
- (10) the prohibition of excessive storage of food in cells and day rooms.
- (11) a method to allow hand washing prior to meals being served in holding cells.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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TRD-202501602

Brandon Wood
Executive Director
Texas Commission on Jail Standards
Earliest possible date of adoption: June 22, 2025
For further information, please call: (512) 850-9668

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 71. INFORMATION PRACTICES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Chapter 71 consisting of §71.101, concerning Definitions; §71.102, concerning Requests for Information; §71.103, concerning Schedule of Fees; §71.201, concerning Definitions; §71.202, concerning Confidential Nature of Client Information; §71.203, concerning Client Access to Own Information; §71.204, concerning Release for Death Notification; §71.205, concerning Release for Eligibility Verification, Billing, and Service Delivery; §71.206, concerning Release under Client Authorization; §71.301, concerning Definitions; §71.302, concerning Right of Access to Your Individually Identifiable Health Information; §71.303, concerning Designated Record Sets; §71.304, concerning Right to Report of Disclosures; §71.305, concerning Fees for Copies of Information; §71.306, concerning Requests for Further Limits on Uses and Disclosures of Individually Identifiable Health Information; §71.307, concerning Requests for Communication by Different Means or at Different Locations; §71.308, concerning Verification of Identity and Authority; §71.309, concerning Disclosure of Health Information; §71.310, concerning Complaints; §71.401, concerning Right to Correct Incorrect Information; §71.402, concerning Requesting a Correction; §71.403, concerning Where to Send a Request for Correction; §71.404, concerning The Correction Review; and §71.405, concerning Correction of Individually Identifiable Health Information in a Designated Record Set.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove obsolete rules adopted in 2003 by the Texas Department of Human Services concerning information practices. These rules are outdated, duplicative of current rules and contain incorrect agency information.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§71.101 - 71.103, 71.201 - 71.206, 71.301 - 71.310 and 71.401 - 71.405 removes rules no longer necessary.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rule repeals will be in effect, enforcing or administering the rule repeals do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule repeals will be in effect:

- (1) the proposed repeals will not create or eliminate a government program;
- (2) implementation of the proposed repeals will not affect the number of HHSC employee positions;
- (3) implementation of the proposed repeals will result in no assumed change in future legislative appropriations;
- (4) the proposed repeals will not affect fees paid to HHSC;
- (5) the proposed repeals will not create a new regulation;
- (6) the proposed repeals will repeal an existing regulation;
- (7) the proposed repeals will not change the number of individuals subject to the rules; and
- (8) the proposed repeals will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules will be removed and do not require any change in business processes or additional costs.

LOCAL EMPLOYMENT IMPACT

The proposed repeals will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to the repeals because the repeals do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Libby Elliott, Deputy Executive Commissioner for the Office of Policy and Rules, has determined that for each year of the first five years the repeals are in effect, the public benefit will be removal of unnecessary rules from the Texas Administrative Code.

Trey Wood has also determined that for the first five years the repeals are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed repeals because the rules will be removed.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please

indicate "Comments on Proposed Rule 24R056" in the subject line.

SUBCHAPTER A. DISCLOSURE OF INFORMATION

40 TAC §§71.101 - 71.103

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0151, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The repeals implement Texas Government Code §524.0151.

§71.101. *Definitions.*

§71.102. *Requests for Information.*

§71.103. *Schedule of Fees.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Karen Ray

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Department of Aging and Disability Services

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For further information, please call: (512) 221-9021



SUBCHAPTER B. CLIENT INFORMATION

40 TAC §§71.201 - 71.206

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0151, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The repeals implement Texas Government Code §524.0151.

§71.201. *Definitions.*

§71.202. *Confidential Nature of Client Information.*

§71.203. *Client Access to Own Information.*

§71.204. *Release for Death Notification.*

§71.205. *Release for Eligibility Verification, Billing, and Service Delivery.*

§71.206. *Release under Client Authorization.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER C. PRIVACY OF HEALTH
INFORMATION

40 TAC §§71.301 - 71.310

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0151, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The repeals implement Texas Government Code §524.0151.

§71.301. *Definitions.*

§71.302. *Right of Access to Your Individually Identifiable Health Information.*

§71.303. *Designated Record Sets.*

§71.304. *Right to Report of Disclosures.*

§71.305. *Fees for Copies of Information.*

§71.306. *Requests for Further Limits on Uses and Disclosures of Individually Identifiable Health Information.*

§71.307. *Requests for Communication by Different Means or at Different Locations.*

§71.308. *Verification of Identity and Authority.*

§71.309. *Disclosure of Health Information.*

§71.310. *Complaints.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER D. CORRECTING
INFORMATION

40 TAC §§71.401 - 71.405

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0151, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The repeals implement Texas Government Code §524.0151.

§71.401. *Right to Correct Incorrect Information.*

§71.402. *Requesting a Correction.*

§71.403. *Where to Send a Request for Correction.*

§71.404. *The Correction Review.*

§71.405. *Correction of Individually Identifiable Health Information in a Designated Record Set.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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